

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE T.RAJANI

Writ Appeal No.327 of 2017

JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.6026 of 2012 dated 04.01.2017. The 1st respondent herein filed the said writ petition to declare the action of the appellants herein in proceeding with acquisition of land of an extent of Ac.2.20 cents in R.S.No.462 of Rustumbada Village, Narsapur Mandal, West Godavari District and in passing an award without giving any notice, any opportunity of hearing and without following the due procedure as contemplated under the Land Acquisition Act, 1894 (for short "the Act"), and in issuing proceedings dated 16.02.2012 as arbitrary and illegal.

A notification was issued by the appellants herein under Section 4(1) of the Act on 18.05.2007. The declaration, under Section 6 of the Act, was issued on 05.01.2009. Aggrieved thereby the land owners therein filed W.P.No.825 of 2009 and a Learned Single Judge of this Court passed an interim order in W.P.M.P.No.1036 of 2009 on 28.01.2009 granting stay of dispossession alone while making it clear that all further proceedings may go on. Notices under Sections 9(3) and 10 of the Act dated 22.11.2010 was issued to the notified land owners and, thereafter, an award was passed on 17.01.2012 questioning which the 1st respondent-writ petitioner invoked the jurisdiction of this Court. The Learned Single Judge initially granted an order of *status quo* on 06.03.2012 and thereafter, by the order under appeal, the award passed by the Land Acquisition Officer was set aside.

In the order under appeal the Learned Single Judge observed that an award under Section 11 of the Act is required to be passed within a period of two years from the date of publication of the declaration and, if

no award is made within that period, the entire proceedings for acquisition of land shall lapse. The Learned Single Judge, while observing that there was no stay granted pursuant to the said declaration, held that, consequently, the award dated 17.01.2012 was beyond the period of two years prescribed under Section 11-A of the Act.

Before us, the Learned Government Pleader for Land Acquisition would submit that in computing the two year period of limitation prescribed under Section 11-A of the Act, the period, during which an order of stay granted by this Court operates, is required to be excluded; and as an interim order of stay was passed on 28.01.2009, which continued till the earlier writ petition was disposed of on 11.04.2011, the award passed by the Land Acquisition Officer would be within limitation, if the said period is excluded.

Section 11-A of the Act prescribes the period within which an award should be made and, under sub-section (1) thereof, the Collector shall make an award under Section 11 within a period of two years from the date of the publication of the declaration and, if no award is made within that period, the entire proceedings for acquisition of the land shall lapse. Under the Explanation thereto, in computing the period of two years referred to in Section 11-A, the period during which any action or proceeding to be taken, pursuant to the said declaration, is stayed by an order of a Court shall be excluded.

It is no doubt true that, in view of the Explanation, the period of two years stipulated under Section 11-A(1) of the Act would exclude the period during which any action or proceeding to be taken, pursuant to the said declaration, is stayed by an order of a Court. In the present case, however, the order of stay passed by this Court prevented the appellants only from dispossessing the 1st respondent-writ petitioner and not from passing the award. In fact, the Learned Single Judge, while granting stay of dispossession, made it amply clear that all further proceedings may go on. There was no restraint on the appellants in

passing an award in terms of the order of stay passed by this Court earlier. The contention that the period of stay granted by this Court must be excluded, therefore, necessitates rejection. As it is evident that the award was passed beyond the period of limitation stipulated under Section 11-A(1) of the Act, the Learned Single Judge was justified in setting aside the award. We find no error in the order of the Learned Single Judge necessitating interference in proceedings under Clause 15 of the Letters Patent.

The Writ Appeal fails and is, accordingly, dismissed. Needless to state that this order shall not preclude the appellants herein from initiating land acquisition proceedings afresh and in accordance with law. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

01st June, 2017
JSU

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Date: 01.06.2017

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