

THE HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.19409 OF 2002

ORDER:

The claim of the petitioner is that he owned an extent of Acs.2.38 cents of land in Sy.No.193/2 of Mulasagaram Village, Nandyal Mandal of Kurnool District by inheritance. The Government had acquired an extent of Acs.100.07 cents for providing house sites to the persons belonging to the weaker sections. The Land Acquisition Officer has passed a common award No.26/83 on 29.08.1983 in respect of all the lands mentioned in the said notification and fixed the market value of the lands @ Rs.6,000/- per acre. As the amount of award was grossly low, some of the claimants submitted applications for reference of the matter to the civil Court. The Subordinate Judge, Nandyal, passed judgment and decree on 14.03.1986 in O.P.Nos.107/1985 and batch and enhanced the compensation to Rs.40,000/- per acre. Against the said judgment and decree, the Government preferred appeals, viz., A.S.No.2032 of 1986 and batch before this Court. The claimants also filed their X-objections seeking further enhancement of compensation to Rs.70,000/- per acre. This Court dismissed the appeals on 25.04.1989. Therefore, the matter has become final.

2) It is further stated by the petitioner that after coming to know about the judgment and decree passed by the Subordinate Judge, Nandyal, he submitted an application to the 1st respondent on 13.06.1986 requesting for re-determination of compensation basing on the judgment of the Subordinate Judge.

On the same day, his Advocate filed copy application before the Sub-Court, Nandyal for obtaining certified copy. The certified copy was made ready on 18.06.1986. On receipt of the order copy, the petitioner submitted the same before the 1st respondent on 18.06.1986 so as to facilitate the 1st respondent to re-determine the compensation. The time taken for obtaining the certified copy of the judgment of the civil Court should be excluded while computing the limitation period of three months prescribed under Section 28-A of the Land Acquisition Act, 1894 (for short 'the Act'). Based on the High Court order, the impugned proceedings in Rc.No.G.3150/86, dated 21.09.1995 came to be passed rejecting petitioner's application for re-determination of the compensation on the ground that the application was filed after expiry of 3 months time limitation prescribed under Section 28-A of the Act.

3) Against which, the present writ petition came to be filed mainly contending that the application for re-determination of the compensation under Section 28-A of the Act filed on 13.06.1986 is well within time, the time taken for obtaining certified copy of the order should be excluded while computing the three months period prescribed for filing of application under Section 28-A of the Act. The provision of Section 28-A of the Act is a beneficial provision intended to protect the interests of the land losers and to reduce the burden of litigation both on the claimants as well as the Government and it has to be interpreted in its true spirit of aim and objects.

4) The 1st respondent filed counter admitting the fact that the Land Acquisition Officer has awarded compensation fixing the market value of the land @ Rs.6,000/- per acre. On reference under Section 18, the Subordinate Judge, Nandyal, by an order dated 14.03.1986 in O.P.Nos.107 of 1985 & batch, enhanced the market value of the land to Rs.40,000/- per acre and in appeal the same was confirmed by this Court in A.S.No.2032 of 1986 & batch. It is further stated that filing of the application by the petitioner under Section 28-A of the Act on 13.06.1986 is not correct and the petitioner was put to strict proof of the same. The petitioner, through his counsel, for the first time submitted application on 04.05.1990, stating that he submitted the application under Section 28-A of the Act along with a certified copy of the judgment in O.P.No.107/1985 for re-determination of compensation on par with the decree holder. The counsel for the petitioner had again submitted representation on 26.11.1993 stating that the application was filed under Section 28-A of the Act on 13.06.1986. The certified copy of the judgment revealed that the judgment copy was furnished to the petitioner on 18.06.1986. The office record also does not show that the petitioner filed application under Section 28-A of the Act on 13.06.1986. This clearly reveals that the contention of the petitioner that he had submitted application on 13.06.1986 is false. Hence, the petitioner had not filed any application under Section 28-A of the Act on 13.06.1986 and the impugned order gives sufficient reasoning for rejection of the petitioner's

application for re-determination of the compensation under Section 28-A of the Act.

5) Heard both sides and perused the material on record.

6) The counsel for the petitioner would contend that the petitioner has submitted application for re-determination of compensation on 13.06.1986 and submitted certified copy of the decree on 18.06.1986, the time taken for certified copy should be excluded while computing the limitation period of three months, as prescribed under Section 28-A of the Act.

7) The learned Government Pleader for Land Acquisition would contend that petitioner had not filed any application for re-determination of compensation as per Section 28-A of the Act.

8) The learned Government Pleader would further contend that W.P.Nos.19390 and 19524 of 2002, arising out of the same notification and in respect of the lands mentioned in the same notification along with petitioner's lands and in similar set of circumstances, were dismissed by this Court holding that the petitioners failed to establish the facts making such request in writing to the Collector for re-determination of compensation, in terms of the judgment of the civil Court, within the time limit specified under Section 28-A of the Act.

9) Having carefully considered the submissions of the counsel and perused the impugned order, I find that the petitioner had not submitted application for re-determination of

the compensation as per the judgment of the civil Court passed in O.P.No.107 of 1985 & batch dated 14.03.1986, on 13.06.1986 within the prescribed period of limitation of three months as per Section 28-A of the Act. Hence, in view of the judgment of this Court passed in W.P.Nos.19390 and 19524 of 2002, dated 11.06.2010, as stated supra, this writ petition is also liable to be dismissed.

10) Accordingly, the writ petition is dismissed. No costs. Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

30.11.2017
TSNR



M.GANGA RAO, J