

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.9130 of 2005

ORDER:

Petitioners are owners of Ac.20.00 gts of dry land in Sy.Nos.72/2 and 73/2 of Koneti Puram village, Vangoor Mandal, Mahaboob Nagar District. This land was notified under Section 4(1) of the Land Acquisition Act, 1894 (for short “the Act”) for setting up of 220 KV.Switching Station for A.P.Transco vide notification dt.27-04-2000. Subsequently, declaration under Section 6 of the Act was published on 24-09-2000.

2. Petitioners contend that though a consent award is purported to have been passed under Section 11(2) of the Act on 16-06-2000, the procedure prescribed under G.O.Ms.No.1050 Revenue (LA) dt.17-10-1992 wherein the Andhra Pradesh Land Acquisition (Negotiation Committee) Rules, 1992 were made, were not followed and there was no negotiation between the petitioners and the Negotiation Committee. They state that neither the District Collector nor the Revenue Divisional Officer (Land Acquisition Officer), Mahaboob Nagar Town, Mahabob Nagar District (respondent) issued any notice to them nor was any notice displayed in the Village chavidi stating that consent award would be passed. They stated that 1st petitioner was simply asked by respondent to give a letter expressing his willingness for acquisition of lands at Rs.30,000/- per acre; that respondent had in fact addressed a letter to the A.P. Transco to provide Rs.9,50,000/- to pass an award along

with statutory benefits; and such funds were also provided by the A.P. Transco, but the respondent passed an award for only Rs.6,00,000/- taking the land value at Rs.30,000/- per acre. They contend that they were denied statutory benefits such as solatium and interest by respondent in the impugned award, that they never agreed to forego any statutory benefits, that the respondent insisted the petitioners to sign "Agreement to be executed when lands is for public purpose by Agreement between the persons interested, and the acquiring body" in December, 2000 and that the said agreement contained number of blanks which were unfilled. They also filed a photocopy of the said agreement.

3. They therefore prayed that the action of respondent in passing an award on 16-06-2000 without awarding statutory benefits such as solatium and interest is illegal, improper and without jurisdiction and seek a direction to pay the same.

4. Counter-affidavit is filed by respondent stating that petitioners gave a consent that they were ready to accept land compensation at Rs.30,000/- per acre and they will not make any application under Section 18 of the Act for referring the matter to the Civil Court; that the Government had issued instructions vide G.O.Ms.No.1050 dt.17-10-1992 to assess the market rate and limitation upto what extent the market rate can be accepted; the principle for calculating the land compensation for land is that the Land Acquisition Officer has to fix the market value based on the

sale particulars and keeping in view other factors as per the Act; and after arriving market value, 30% solatium has to be calculated; thereafter it has to be increased 50% and the result of this process would be the acceptable land compensation. He stated that as per instructions and rules, the interest should not be computed for the market value and solatium. He contended that in the present case, the Land Acquisition Officer asked the market value as Rs.12,750/- per acre and after computing 30% solatium of Rs.3,825/-, fixed the rate per acre at Rs.16,575/- and thereafter increased the same by 100% and arrived at Rs.33,150/- per acre. He contended that this was within the limitation to accept the consent as per the norms and so the Land Acquisition Officer awarded Rs.33,000/- per acre. He therefore contended that petitioners are not eligible for statutory benefits. It is also stated that petitioner gave undertaking agreement on Rs.25/- stamp paper stating that land compensation may be paid at Rs.33,000/- per acre including all benefits and they will not approach the Civil Court for enhancement of compensation under the Act, and this was attested by the Mandal Revenue Officer, Vangoor. It was denied that the Land Acquisition Officer had insisted the petitioners to sign the agreement. It is stated that the petitioners had admitted that they have given an undertaking to the Mandal Revenue Officer who in turn transmitted the same. It was admitted that some blanks in the agreement were unfilled and it is contended that the Land Acquisition Officer is not competent to fill

the blanks as the petitioners are executants and the blanks do not affect the purpose of the agreement.

5. Learned Government Pleader for Acquisition appearing for respondent contended that since petitioners had accepted compensation of Rs.6,00,000/- without any demur or protest and agreed not to claim any additional amount, they are not entitled to question the award. She contended that petitioners were paid in terms of the agreement signed by them.

6. On 06-06-2017, this Court had summoned record from the respondent. The record which was available from the office of the Mandal Revenue Officer, Vangoor Mandal, Mahaboob Nagar has been produced before this Court.

7. The record so produced discloses an agreement on white paper signed by petitioners and the Mandal Revenue Officer, Vangoor and para-8 thereof states as under:

“8. The Government shall bear the stamp duty payable in respect of this Agreement. I am giving consent for the acquisition of my land gts in Sy.No..... and Ac. Village. I may be paid compensation per acre. I will not approach civil court for enhancement u/s.18 of the L.A.Act.”

8. Learned Government for Land Acquisition states that since the record was not available with respondent, the record available with the Mandal Revenue Officer has been produced.

9. Copy of the agreement filed by petitioners, however, is photocopy of the agreement on stamp paper executed by petitioners which, however, states as under:

“8. The Government shall bear the stamp duty payable in respect of this Agreement. I am giving consent for the acquisition of my land Sy.No.72/2 10.60 gts in Sy.No.73/2 9.40 cents, total 20.00 and Ac. Konetipur village. I may be paid compensation at Rs.30,000/- including all benefits per acre. I will not approach civil court for enhancement u/s.18 of the L.A.Act.”

10. From this, it is apparent that the words and figures “at Rs.30,000/- including all benefits”, which were not there in the agreement copy in the Mandal Revenue Officer’s file in para-8 were written in the agreement on stamp paper, copy of which is filed by petitioners. This supports petitioners’ contention in para-10 that when they signed the agreement at the insistence of respondent in December, 2000, there were blanks in the said agreement. In fact, the existence of blanks in agreement is also admitted by respondent in the counter-affidavit at para-3. Obviously both the agreement on plain white paper and the agreement on stamp paper were taken at the same time.

11. It is not in dispute that respondent had requested the A.P.Transco, for whose benefit the acquisition is made, to release a sum of Rs.9,50,000/- including land compensation of Rs.6,00,000/- at Rs.30,000/- per acre + solatium of Rs.2,00,000/- and additional market value of Rs.72,000/- apart from interest at Rs.58,000/- and

publication charges of Rs.20,000/- and an estimate in this regard in proceedings No.F/1821/99 dt.06-05-1999 was sent by respondent to the A.P.Transco. Copy of which was filed by petitioners.

12. If really petitioners had given up their claim for statutory benefits, the respondent would not have sought from A.P.Transco the sum of Rs.9,50,000/-. This supports petitioners' plea that they were agreed to give up statutory benefits.

13. The fact that the words "at Rs.30,000/- including all benefits" were not found in the copy produced by the Government Pleader from the Mandal Revenue Officer's records, which words were found in the photocopy of the agreement filed by petitioners in para-8 of the said agreement and the fact that the respondent had admitted that there were blanks clearly indicates that the words "at Rs.30,000/- including all benefits" were written subsequently in the original of the agreement signed by petitioners long after the petitioners put their signature on it.

14. Though respondent had stated that he was not competent to fill the blanks, the fact that the said words appear in the copy of the agreement filed by petitioners indicates that he did fill the blanks with the above words.

15. Having regard to this conduct of respondent, and having regard to the contention of petitioners that they agreed for fixation of market value of lands at Rs.30,000/- per acre but they did not give

up their right to claim solatium and interest, I am of the view that the petitioners cannot be said to have given up these benefits which they are entitled to under the Act and to deprive the petitioners of these benefits, the words “including all benefits” were written by respondent after the petitioners had signed the agreement and handed over the original agreement to respondent.

16. In this view of the matter, the decision in **Ranveer Singh Vs. State of Uttar Pradesh and others**¹ cited by the learned Government Pleader would not apply. In that case, there was an agreement for compensation on 27-02-2003 between the land owner and the State of Uttar Pradesh. Thereafter the land owner claimed interest under Section 34 of the Act from 15-02-2001 on which date possession of the land was taken by the State authorities. This was rejected by the concerned District Munsif on 06-08-2005. Writ Petition was filed challenging the same, but the same was also rejected by the High Court at Allahabad. The land owner then approached the Supreme Court. The Supreme Court held that as per the agreement between the parties the entire compensation was paid and he accepted the same without any demur or protest, that he claimed interest under Section 34 of the Act subsequently in the Writ Petition through an amendment; and after entering into an agreement under the U.P.Land Acquisition (Determination of Compensation and Declaration of Award by Agreement) Rules, 1997, he cannot claim interest under Section 34 of the Act. The

¹ AIR 2016 SC 3753

Court placed reliance on its own earlier judgment in **State of Gujarat and Others Vs. Daya Shamji Bhai and others**² wherein the Court held that if the land owner was paid in terms of the agreement he cannot seek a reference under Section 18 of the Act.

17. In my consideration opinion, these judgments are distinguishable because in the present case, so-called award passed by respondent on 16-06-2000 insofar as it relates to market value of Rs.30,000/- per acre may be in conformity with the agreement executed by petitioners as regards the rate, but insofar as the claim for solatium, additional market value and interest is concerned, in view of the subsequent insertion of the words “including all benefits” by respondent in the agreement already signed by petitioners, the award passed does not represent what was agreed to by petitioner i.e. not giving up the benefits under the Act. The respondent cannot be allowed to deny the benefits available to petitioners under the Act by clandestinely inserting in para-8 of the original agreement the words “including all benefits” subsequent to petitioners signing the agreement and then contending that petitioners are not entitled to solatium, additional market value and interest.

18. Therefore, the Writ Petition is allowed and respondent is directed to pay solatium, additional market value and interest on the compensation awarded in the award bearing No.F/1821/99

² AIR 1996 SC 133

dt.16-06-2000 to petitioners within three (03) months from the date of receipt of a copy of this order. No costs.

19. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08-08-2017

Vsv

