

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

Writ Appeal No.739 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.1594 of 2017 dated 30.03.2017. The respondents herein are the petitioners in the writ petition wherein they sought a mandamus to declare the action of the respondents, in not paying compensation to them on par with other land owners as per the compensation rates fixed by the District Level Negotiation Committee, as arbitrary and illegal.

By the order under appeal, the Learned Single Judge directed the appellants herein to pay compensation to the respondent-writ petitioners on par with other land owners, as per the compensation fixed by the District Level Negotiation Committee, in respect of the subject properties as per the consent award dated 26.09.2016 passed by the Revenue Divisional officer, Kurnool.

Facts, to the limited extent necessary, are that an extent of Acs.1173.85 of land was sought to be acquired. An award was passed on 10.02.2016 (award No.2 of 2016) acquiring an extent of Acs.888.66. A consent award was passed on the same day i.e 10.02.2016 (award No.1 of 2016) for an extent of Acs.285.19. On the awardees, under the general award dated 10.02.2016, expressing their consent for the land to be acquired on payment of compensation, in terms of consent award No.1 of 2016, the matter was re-examined and, while a consent award was passed acquiring Acs.461.63 on 26.09.2016, a general award was passed on the same day i.e 26.09.2016 for the remaining extent of Acs.427.03. The respondent-writ petitioners' lands are said to form part of the extent of Acs.427.03 for which a general award was passed

on 26.09.2016. It is their case that they should have been treated on par with the awardees in whose favour the consent award was passed on 26.09.2016. Yet another complaint is that the compensation payable to them under the award has not been paid to them till date.

Before us the Learned Government Pleader for Land Acquisition would submit that this Court, in proceedings under Article 226 of the Constitution of India, could not have taken upon itself the task of adjudicating whether or not the respondent-writ petitioners were entitled for payment of compensation on par with those who had given consent earlier; if the respondent-writ petitioners were aggrieved by the award, the remedy prescribed under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the 2013 Act”) is to approach the authority prescribed thereunder; it is not open to the respondent-writ petitioners to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India; and the appellants had kept the money in revenue deposit, instead of depositing it with the authority under Section 64 of the Act, as the Authority itself was constituted only in April, 2017.

Sri D. Krishna Murthy, learned counsel for the respondent-writ petitioners, would draw our attention to the contents of the award dated 26.09.2016 to contend that the objections to the respondent-writ petitioners’ claim of parity, with those in whose favour consent awards were passed, are frivolous; the findings of the Land Acquisition Officer run contrary to the judicial pronouncements of this Court; and the respondent-writ petitioners are, therefore, entitled to be treated on par with those in whose favour consent awards were passed. Learned counsel would also submit that, in any event, the compensation payable to the respondent-writ petitioners under the 2013 Act,

pursuant to the award dated 26.09.2016, should have been paid to them.

Section 64(1) of the 2013 Act stipulates that any person interested, who has not accepted the award, may by written application require that the matter be referred to the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested. It is evident, therefore, that the jurisdiction of the Authority under Section 64(1) of the 2013 Act can be invoked by seeking a reference to the Collector, even in cases where there is a dispute regarding the person to whom the compensation is payable. In the present case while the award was, no doubt, passed on 26.09.2016, and the time limit specified to make an application for reference to the District Collector is 30 days, the fact remains that the authority under Section 64 of the 2013 Act was itself constituted only in April, 2017, and the compensation payable in terms of the award has also not been deposited with the authority till date. Section 77(2) of the 2013 Act requires the Collector to deposit the amount of compensation with the authority to which a reference under Section 64 of the Act would be submitted.

It would be wholly inappropriate for us, in proceedings under Article 226 of the Constitution of India, to examine the claim of respondent-writ petitioners to be paid compensation on par with those in whose favour consent awards were passed. While we would not have, ordinarily, interfered to grant further time to the respondent-writ petitioners to make an application to the Collector for seeking reference, failure on the part of the appellants to deposit the compensation

amount with the authority under Section 64 of the Act even till date, and the jurisdiction of this Court being invoked by the respondent-writ petitioners on 02.01.2017 itself, would justify grant of further time to the respondent-writ petitioners to make an application for reference. As the remedy prescribed in the 2013 Act is for the respondent-writ petitioners to seek a reference, which they did not seek and instead invoked the jurisdiction of this Court, we consider it appropriate to permit them to seek a reference to the competent authority under Section 64 of the Act, by submitting an application to the Collector within two weeks from today. If such an application is made within the aforesaid period of two weeks, the Collector shall refer the matter to the Authority under Section 64 of the Act. The appellants shall also deposit the compensation payable under the award, which the respondent-writ petitioners claim that they are entitled to, with the authority under Section 64 of the Act within two weeks from today.

The order under appeal is, accordingly, set aside and the Writ Appeal is disposed of in terms of the directions issued hereinabove. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

19th June, 2017
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Date: 19.06.2017

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