

**THE HONOURABLE SRI JUSTICE RAJA ELANGO**

**WRIT PETITION No.26543 OF 2008**

**ORDER:**

This writ petition is filed under Article 226 of the Constitution of India seeking to issue a writ or direction or order, more particularly, one in the nature of writ of *mandamus* to direct the respondents to pay the compensation on par with other claimants in Award No.3 of 1988 on the file of respondent No.2 whose cases have been considered by this Court and compensation was granted in the said cases at Rs.80,000/- per acre.

2. The petitioner is one of the landowners whose land admeasuring Acs.2.00 cents comprised in Survey No.197/7-D2 of Rajahmundry Rural, East Godavari District was acquired for the purpose of Oil and Natural Gas Commission operations. A sum of Rs.50,000/- per acre was awarded under Award No.3 of 1988, dated 31.03.1988. The application of the petitioner for reference under Section 18 of the Land Acquisition Act, 1894 (for short, "the Act") was entertained and numbered as O.P.No.134 of 1989 on the file of the learned Senior Civil Judge, Rajahmundry, East Godavari District but the same was dismissed on the ground that the application for reference was made beyond the period of limitation. However, the application of the petitioner's mother for reference under Section 18 of the Act was entertained as O.P.No.133 of 1989 in respect of her land and the learned Senior Civil Judge, Rajahmundry decreed the same on 6.9.2000 by enhancing the market value to Rs.80,000/- per acre. The petitioner got issued legal notice, dated 24.11.2000, to pay the compensation to him on

par with the compensation enhanced in respect of the land of his mother as in O.P.No.133 of 1989. The said notice was replied by respondent No.2 vide his endorsement, dated 5.12.2000, wherein it was mentioned that the decree on the basis of which the petitioner sought for enhancement of the market value was stayed by this Court in the appeal filed by the respondents. The said appeal i.e., A.S.No.3415 of 2000 filed questioning the decree, dated 6.9.2000, passed by the learned Senior Civil Judge, Rajahmundry was dismissed by this Court by judgment and decree, dated 25.2.2003. Thereafter, he filed W.P.No.13126 of 2004 and the same was allowed on 23.6.2008 directing respondent No.2 to consider the application of the petitioner on merits in terms of the order and decree, dated 6.9.2000, in O.P.No.133 of 1989, as confirmed by the judgment and decree, dated 25.2.2003, in A.S.No.3415 of 2000 within a period of eight weeks from the date of receipt of a copy of that order. Pursuant to the said order, respondent No.2 sent a notice on 25.8.2008 asking the petitioner to be present in his office on 28.8.2008 and accordingly, the petitioner attended his office and submitted his version. Respondent No.2, vide his order, dated 25.9.2008, issued proceedings rejecting the claim of the petitioner on the ground that he failed to comply with the basic provisions at the time of filing the application under Section 28-A of the Act and that his application is not in accordance with the Rules. Challenging the same, the present writ petition is filed.

3. Heard.

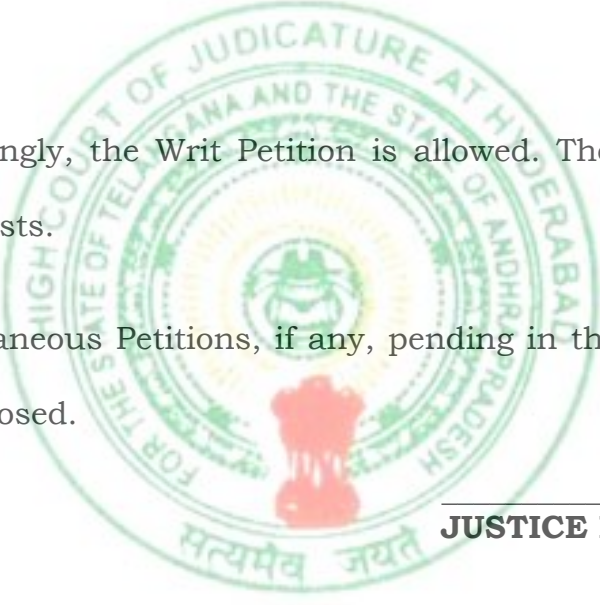
4. From a perusal of the order, dated 23.6.2008, in W.P.No.13126 of 2004, it is very clear that dismissal of an

application filed under Section 18 of the Act as time barred would not bar the landowner from making an application under Section 28-A of the Act. In view of the facts and circumstances of the case and the observation made by this Court in W.P.No.13126 of 2004, the respondents are directed to disburse the amount in favour of the petitioner in terms of the order and decree, dated 6.9.2000, in O.P.No.133 of 1989 on the file of the Senior Civil Judge, East Godavari District, Rajahmundry, as confirmed by the judgment and decree, dated 25.2.2003, in A.S.No.3415 of 2000 of this Court within a period of two (2) months from the date of receipt of a copy of this order.

5. Accordingly, the Writ Petition is allowed. There shall be no order as to costs.

6. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

25.1.2017  
AMD



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**Date: 25.1.2017**

AMD