

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.27166 of 2008

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“To issue a writ of Mandamus or any other appropriate writ order or direction under Article 226 of the Constitution of India and declare the action of the respondents in insisting on payment of compensation at the rate of Rs.1,87,000/- per acre for land measuring Ac 1.50 cents covered by Patta No. 4661 and situated in S.No.259/2A in Sompeta Town and mandal as illegal, and consequently direct the respondents to pay an amount of Rs.27,04,000/- (Rupees Twenty Seven Lakhs four thousand Only) at the rate of Rs. 400/- per square yard with the interest at 24% from the date of handing over possession on 13-12-1991 after deducting the amount of Rs.Two Lakhs already paid.”

2. Heard Smt K.Lalitha, learned counsel for the petitioner and Sri S.V.Ramana, learned Standing Counsel for the respondent/APSRTC apart from perusing the material available on record.

3. According to the petitioner, which is a temple, it owned an extent of Ac.1-50 cents of land bearing Patta No.4661 situated in Sy.No.259/2A of Sompeta Town and Mandal, Srikakulam District.

4. On the request made by the respondent Road Transport Corporation, petitioner handed over its land to the Corporation on 13.12.1991 under the orders of approval issued by the Commissioner of Endowments vide Rc.No.M2/38295/88-1, dated 04.05.1991 for construction of bus-station and shopping complex. The respondent Corporation paid tentatively a sum of Rs.2,00,000/- by way of a cheque dated 28.03.1991. The complaint precisely in the writ petition is that though the market value of the subject land as on 13.12.1991 was Rs.400/- per square yard, the APSRTC paid a paltry sum and

that the petitioner herein is entitled for Rs.27,40,000/- per acre if it is calculated @ Rs.400/- per square yard. Petitioner got issued a legal notice on 19.05.2008 demanding the above said sum and the APSRTC gave a reply. In the above background, the present writ petition came to be filed.

5. A counter affidavit is filed on behalf of the respondents, denying the averments in the affidavit filed in support of the writ petition..

6. It is submitted by the learned counsel for the petitioner that the impugned action is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 300-A of the Constitution of India and that there is no justification on the part of the respondents in paying paltry sum for the land situated in the prime locality of Sompeta Town.

7. On the other hand, learned Standing Counsel for the respondent Road Transport Corporation vehemently contends that there is no illegality nor there is any infirmity in the impugned action. It is further submitted that the respondent/APSRTC paid the amount as per the rate fixed by the District Collector and that the writ petition is liable to be dismissed on the ground of delay and that in the absence of any statutory or constitutional right, the writ petition cannot be maintained before this Court.

8. There is absolutely no dispute with regard to the factum of taking possession of the subject land on 13.12.1991. It is stated in the counter affidavit that the District Collector, Srikakulam fixed the land value vide proceedings vide R.Dis.No.8904/1994, dated 29.04.1995 in consonance with the records of the Sub-Registrar, Sompeta for the year 1991 i.e., @ Rs.1,87,500/- per acre. It is also stated that the amount payable for the subject land was arrived at Rs.2,53,125/- and out of which the APSRTC paid a sum of Rs.2,00,000/- as advance. Counter further states that the APSRTC

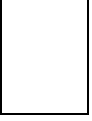
paid another sum of Rs.1,00,000/- to the Grampanchayat, Sompeta towards the developmental charges. It is also not in dispute that in response to the registered legal notice dated 19.05.2008, the respondents got issued a reply on 08.07.2008 saying that the balance amount of Rs.53,125/- would be paid after receipt of acceptance from the Executive Officer of the petitioner temple in terms of the order of the District Collector fixing the amount. As rightly pointed out by the learned Standing Counsel for the respondent Corporation no reason is forthcoming as to why the petitioner kept quiet from 1991 till 2008 i.e., till the date of issuance of legal notice. It is also required to be noted that the order of the District Collector fixing the quantum is not under Challenge. This Court, in exercise of the powers conferred under Article 226 of the Constitution of India, cannot determine as to whether the quantum fixed by the District Collector is correct or not, but this Court cannot lose sight of one important aspect that the respondents have not paid the balance amount of Rs.53,125 though the possession was taken as long back as on 13.12.1991.

9. For the aforesaid reasons, writ petition is disposed of, directing the respondents herein to pay the balance amount of Rs.53,125/- with interest @ 9% per annum from the date of taking possession i.e., 13.12.1991 till the date of payment. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

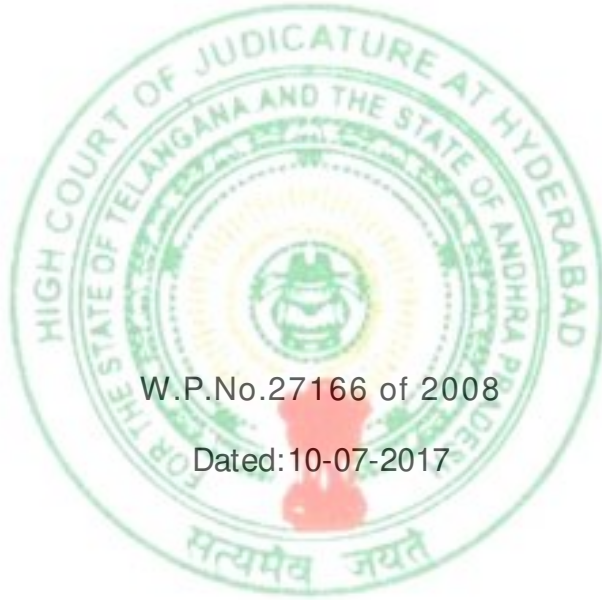
A.V.SESHA SAI, J

Date:10.07.2017

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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



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