

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.7005 of 2017

ORDER:

The Writ petition is filed under Article 227 of the Constitution of India for the following relief:

“...to issue an order or direction or writ more appropriately a WRIT OF MANDAMUS, to declare the action of the Respondents herein in not passing final award in respect of the Petitioner's house i.e., H.No.4-20, Namnoor village, Mancherial Mandal, Adilabad District, which was acquired on 18.01.2008 for submergence of Sripada Yellampally Project and the award was passed in respect of others except the Petitioner house, though the possession was taken on 17.01.2010 but non passing of final award and non payment of legitimate compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 till date as illegal and arbitrary and consequently direct the Respondents herein to pass final award in respect of acquisition of the Petitioner's H.No.4-20, Namnoor Village, Mancherial Mandal, Adilabad District, presently Hafizpur Mandal, Mancherial Mandal, Adilabad District, under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as per the present market value forthwith and pay the legitimate compensation to the Petitioner forthwith and to pass such other order or orders which are deemed fit and Justin the circumstances of the case.”

2) Heard learned counsel for the petitioner, learned Government Pleader for Irrigation representing respondents 1 and 2 and learned Government Pleader for Land Acquisition for respondents 3 and 4 and perused the prayer in the writ petition

with the supporting affidavit and also the counter filed on behalf respondents 3 and 4 and in particular with no separate counter for respondents 1 and 2 much less any further written instructions.

3) The grievance of the petitioner in support of the prayer in the writ petition from her affidavit averments is that by virtue of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) particularly Section 24 (1) of the Act, the respondents are bound to pass award, if at all, to acquire by following the conditions of Act 30/2013 and even otherwise as per the Telangana State Amendment Act No.21/2017 which received the assent of the Hon'ble President of India and came into force w.e.f., 01.06.2014 atleast the consent award like a voluntary private alienation.

4) The undisputed facts are that the property was also part of the acquisition initially covered under Section 4 (1) of Land Acquisition Act, 1894 subsequently because of some disputes in relation to estimation from the Agricultural Finance Corporation, re-estimated particulars vide award passed on 25.10.2010. The area of the petitioner is not covered therein under Section 11 of the old Act. It is also the submission from the counter averments by the learned Government Pleader that by invoking proceedings under the Act 30 of 2013, an award is going to be passed soon in favour of the petitioner.

5) Having regard to the above and since the legal position is very clear, the writ petition is disposed of, directing the respondents to pass award for the entitlement of the petitioner to compensation under Act 30/2013 which is covered by the State

Amendment Act 21 of 2017 with retrospective effect from 01.06.2014 without which the petitioner cannot be dispossessed. Needless to say the respondents shall complete the process and see that the compensation reaches to the petitioner under Section 38 of the Act within six (6) months from the date of receipt of copy of this order. No order as to costs.

6) Consequently, miscellaneous petitions, if any shall stand closed. No costs.

Date: 10.07.2017
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JUSTICE Dr. B.SIVA SANKARA RAO



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Date:10.07.2017

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