

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.19236 OF 2011

ORDER:

Heard Ms.P.Rajani for petitioners, the Assistant Government Pleader (Land Acquisition) for respondents 1 to 3 and Mr.G.Ramachandra Reddy for respondents 4 and 5.

The petitioners pray for the following relief:

“...writ of Mandamus under Article 226 of the Constitution of India declaring the action of the respondents No.1 to 3 in trying to disburse the compensation amount to respondents No.4 and 5 without referring the dispute to the competent civil court as illegal, arbitrary and in violation of principles of natural justice, in violation of Sections 30 and 31 of Land Acquisition Act and in violation of Articles 14, 21 and 300-A of the Constitution of India and consequently direct the respondents No.1 to 3 to refer the dispute to the civil court for enquiry for appropriate apportionment under section 30 of the Land Acquisition Act for RK-1253 and RK-1299 property acquired under Notification Ref. No. GNSS/C/1087/2007 dated 01.10.2007...”

The case of petitioners is that the petitioners have purchased the subject matter of writ petition through sale deed dated 09.01.1961 and according to petitioners, respondent Nos. 4 and 5 are their tenants. For the purposes of providing land for GNSS project, the land claimed by petitioners through registered sale deed together with super structures is acquired and compensation is awarded in favour of respondent Nos.4 and 5. The petitioners further allege that they are not aware of land acquisition

proceedings, for at no stage of the matter the names of petitioners are referred in any of the proceedings of Land Acquisition Act. Hence, the writ petition for the above prayer.

This Court restrained the respondents from disbursing the compensation for acquiring the subject matter together with super structures.

Respondents 1 to 3 filed a petition to vacate the interim order. In the counter affidavit filed by respondent No.3 on the failure of inaction of respondent No.3 in considering legal notice dated 29.06.2011, the reply reads thus:

“ In reply to para Nos.II and III, it is submitted that it is not correct to say that the Land Acquisition Officer has not considered the representations and legal notices given by the petitioners. It is submitted that nobody objected for the structures RK-1253 and RK-1299 of Kondapuram Village and Mandal since publication of Gazette Notification (18.11.2010) until passing the award. After passing the award (06.06.2011) the writ petitioners have issued the legal notice on 29.06.2011 stating that they are absolute owners for the said structures and they have given the houses for monthly rent to the respondents and requested not to disburse the compensation amount to the respondents, for the said structures until settlement of the title dispute.

In reply to para Nos.IV & V, it is submitted that the Executive Engineer, G.N.S.S. Kadapa has requisitioned the structure bearing Nos.RK-1253 and RK-1299 along with others structures of Kondapuram village and mandal for acquisition to the foreshore area of Gandikota Reservoir vide his Lr.No. EE /G.N.S.S./ Dn/ KDP/ DB /D2 /R&R/349M, dt.22.09.2007.

From the above, it is clear that the legal notice against disbursement of compensation is received by 3rd respondent and no decision in this behalf is taken as on date. Sections 30 and 31 of the Land Acquisition Act read thus:

“30. Dispute as to apportionment. - When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

31. Payment of compensation or deposit of same in Court. - (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.”

From the scheme under Sections 30 and 31 of the Land Acquisition Act, counsel appearing for the parties submit that this Court can direct 3rd respondent to consider the legal notice and take decision in accordance with law. The statement is placed on record and the writ petition is disposed of by this order:

The petitioners are given liberty to enclose all the documents together with copy of legal notice dated 29.06.2011 by enclosing a copy of this order and submit to 3rd respondent within 8 weeks from today. The 3rd respondent considers the legal notice and also the documents on which the petitioners are relying upon, if necessary, to the extent law permits, conducts enquiry, takes a decision and

communicates to petitioners within two months thereafter. The 3rd respondent if considers it appropriate, issues notice to respondents 4 and 5 as well in the enquiry he proposes to conduct in this behalf. The interim order granted on 08.07.2011 is directed to be continued till a decision is taken and communicated to petitioners and respondents 4 and 5.

No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 10.08.2017
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S.V.BHATT, J

