

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.488 OF 2007

ORDER:

The writ petition is filed questioning the action of the respondents in not conducting proper enquiry into the objections filed by the petitioners and not referring the matter to Civil Court and tendering payment of compensation to the 3rd respondent to an extent of Ac.3.02 cents, situated in Sy.No.8/5 of Menakuru Village, Naidupet Mandal, Nellore District, as illegal.

The brief facts of the case according to the petitioners so far as they are relevant for the purpose of disposal of this writ petition are that an extent of Ac.3.02 cents in Sy.No.8/5 of Menakuru Village, Naidupeta Mandal, Nellore District originally belonged to Sri Ganapathi Chengiah. After his demise his three sons (1) Ganapathi Balaiah, (2) Ganapathi Balakrishnaiah and (3) Ganapathi Ramachandraiah inherited the same and were in joint possession and enjoyment of the same. Ganapathi Balaiah died intestate leaving his son the 2nd petitioner and his father Ramachandraiah died intestate leaving 1st petitioner as his legal heir and as such the petitioners are inherited the shares of their father. Ganapathi Balakrishnaiah and the petitioners are entitled to 1/3 share each. Section 4(1) notification under the Land Acquisition Act, 1894 (for short, "the Act") was issued proposing to acquire extent of Ac.3.02 cents for the purpose of Industrial Park. Notice under Sections 9(3) and 10 of the Act was issued on 4.11.2006 directing the petitioners to appear 20.11.2006 and on 20.11.2006, the 1st petitioner appeared before the 2nd respondent and filed revenue records in respect of the land acquired in S.No.85 for an extent of Ac.3.02 cents and requested to

pay the compensation. The 3rd respondent has claimed compensation for Ac.3.02 cents of land stating that his father purchased the same from one of the Co-owners Ganapathi Balakrishnaiah. The 2nd respondent without conducting any enquiry into the title and claim made by the 3rd respondent sought to make payment of compensation to the 3rd respondent.

Counter affidavit has been filed by the 2nd respondent stating inter alia that the award enquiry was conducted and all ryots have agreed for consent award and consent award has been passed on 5.1.2007 for an extent of Ac.78.55 cents deducting Ac.6.11 cents in Sy.No.5/1, 7/1 and 34/4 and the petitioners attended for award enquiry and claimed compensation for Ac.3.02 cents, but they have not produced any documentary evidence in support of their claim. Even in the award enquiry, the 3rd respondent claimed right over the land for an extent of Ac.3.00 in Sy.No.8/5 by producing registered sale deed dated 18.6.1984 executed by Sri Ganapathi Balakrishnaiah. The petitioners have also obtained pattadar pass books and title deeds and were in possession of the said land. Petitioners have executed an agreement in Form-III and affidavit in Form-IV and received the compensation without any protest. After executing the agreements in Form-III and form-IV and receiving compensation for an extent of Ac.0.02 cents, petitioners filed the present writ petition claiming the right over Ac.3.00.

Heard the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition.

On 19.04.2007, this Court while admitting the writ petition passed an interim order directing the 2nd respondent not to disburse the compensation amount in respect of the land in question to the 3rd

respondent, if not already disbursed. As the petitioners kept quiet since 18.06.1984, which is the date of registered sale deed executed by Ganapathi Balakrishnaiah in favour of the 3rd respondent and failed to produce any documentary evidence and received the compensation without any protest, the petitioners cannot seek for reference under Section 18 of the Act.

During the hearing, learned counsel for the petitioners submitted that the petitioners would pursue the other remedies which are available to them under law.

Recoding the said submission of the learned counsel for the petitioners, the writ petition is dismissed giving liberty to the petitioners to pursue the remedies available under law. No order as to costs.

Consequently, Miscellaneous petitions, if any pending in this writ petition shall also stand closed

Date:15.12.2017.
Gk.

KONGARA VIJAYA LAKSHMI,J

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