

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.2116 of 2007

ORDER:

This writ petition is filed questioning the award dated 29.03.2006 of the 1st respondent insofar as the lands of the petitioner admeasuring Ac.0.36 cents in Sy.No.172/ 2, Ac.0.62 cents in Sy.No.180/ 2, Ac.2.27 cents in Sy.No.181/ 2 and Ac.0.89 cents in Sy.No.178/ 1(a) and 1(b), total Ac.4.14 cents, situated in Vaddemanu Village, Nandikotkur Mandal, Kurnool District, as illegal and arbitrary.

2. The brief facts of the case, according to the petitioner, are that the respondents proposed to acquire the lands of the petitioner and others for excavation of HNSS main canal to an extent of Ac.95.83 cents in the village limits of Vaddemanu Village of Nandikotkur Mandal and that an enquiry under Section 5-A of the Land Acquisition Act (for short 'the Act') was dispensed with by invoking urgency clause under Section 17(4) of the Act and declaration under Section 6 of the Act was also published in the newspapers on 24.12.2005. The declaration was published within five days from the date of notification under Section 4(1) of the Act. The petitioner did not receive any notice either under Section 9 of the Act or under Section 11 of the Act. An award was passed on 29.03.2006. On the application of the petitioner, the 1st respondent referred the matter to the civil Court. As the petitioner did not receive any compensation for the subject lands, he challenged the award through present writ petition.

3. A counter-affidavit has been filed on behalf of the respondents stating that notice could not be served on the petitioner directly, as he is not residing in the Vaddemanu village, however, the notices were served on the lease holder of the said lands i.e., Sri M. Siva Reddy and he has promised to handover the said notices to the petitioner. The said notices were also affixed

on the land by the Panchayat Secretary, as the petitioner is not residing in the village. It is further stated that all the land owners, except the petitioner, have attended the award enquiry held on 11.01.2006 and the petitioner did not give consent for the acquisition of the land. After passing of the award, the Land Acquisition Officer has issued notices under Section 12(2) of the Act to the petitioner, but the said notices could not be served on the petitioner, in view of the fact that he is not residing in Vaddemanu village and his whereabouts are not known. The possession of the land in question was taken by the Special Deputy Collector on 31.03.2006 and handed over to the requisitioning department. Subsequently, the petitioner has submitted an application on 19.06.2006 under Section 18 of the Act seeking to refer the matter to the civil court.

4. A reply affidavit has been filed by the petitioner stating that Sri M. Sva Reddy has nothing to do with the property and that no notices were affixed on the land by the Panchayat Secretary. He stated that he is in possession of the property proposed to be acquired.

5. The writ petition was admitted on 06.02.2007.

6. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for respondents.

7. Today, when the matter came up for hearing, learned Assistant Government Pleader passed over the instructions of the Special Deputy Collector (LA), HNSS Unit-4, Kurnool, wherein it is stated that the Branch Manager of the State Bank of India, Treasury Branch, Kurnool, vide letter dated 24.05.2012 furnished a demand draft for Rs.3,07,055/- towards the compensation amount awarded by the Land Acquisition Officer for the lands acquired in the year 2006 and it was deposited to the credit of OP No.58 of 2006. Learned counsel for the petitioner did not dispute the fact that he

participated in Section 18 reference before the civil court and that the said OP was disposed of and the compensation amount has already been deposited before the civil court.

8. As the civil court has already disposed of OP No.58 of 2006 filed under Section 18 of the Act and the compensation amount has been deposited by way of demand draft in favour of the Senior Civil Judge, Nandikotkur, to the credit of the above OP, no further orders are necessary in this matter.

9. In view of the facts and circumstances of the case, the writ petition is closed. However, the petitioner is at liberty to pursue the remedies available to him in accordance with law. No order as to costs. Pending miscellaneous petitions, if any, in this writ petition, shall stand closed.

Date: 18.12.2017
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KONGARA VIJAYA LAKSHMI, J

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