

HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.12956 of 2017

ORDER:

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

“to issue a writ, order or direction more particularly one in the nature of mandamus directing the respondents to deposit the compensation amount as detailed in a G.O.R.T. No.828 dated 28-09-2009 for Rs.39,10,489/- in E.P. 14 of 2009 (O.P.No.8 of 2001) on the file of learned Senior Civil Judge Asifabad with up to date interest @ 15% per annum from 28.09.2009 till the deposit of amount by the respondent with costs and pass other order or orders as this Hon'ble court deems fit, proper just in the circumstance of the case.”

2. Heard the learned counsel for the petitioner, the learned Government Pleader for General Administration Department for the 1st respondent, the learned Government Pleader for Irrigation and CAD Department for the 2nd respondent, the learned Government Pleader for Finance and Planning Department and the learned Government Pleader for Land Acquisition for respondents 4 to 6. I have perused the material available on record.

3. The ancestral agricultural lands of the petitioner situated in Mandrumeda Village in Tiryani Mandal of Komrambhim Asifabad District (previously Adilabad District) underwent submersion under Vattivagu Medium Irrigation Project, Tiryani Mandal, in the year 1996, and the Government took over the said properties. The Land Acquisition Officer passed an award, dated

26.03.1998, awarding a sum of Rs.4,600/- per acre towards compensation. On reference, vide O.P.No.8 of 2001, on the file of the Court of Senior Civil Judge, Asifabad, the said amount was enhanced to Rs.17,000/- per acre. Thereafter, the petitioner herein filed E.P.No.14 of 2009 in O.P.No.8 of 2001, on the file of the Court of Senior Civil Judge, Asifabad, for enforcement of the said order. It is also clear from the material before the Court that the State Government, vide G.O.RT.No.828, Irrigation & CAD (PW.LA.III.A2) Department, dated 28.09.2009, accorded sanction for an amount of Rs.39,10,489/- for payment in respect of O.P.No.8 of 2001. The grievance of the petitioner in the present writ petition is despite lapse of considerable length of time, the respondents have not paid the enhanced compensation to the petitioner herein and due to the same, the petitioner herein is suffering irreparable loss and hardship in the evening of his life.

4. Learned counsel for the petitioner, to substantiate his contentions placed reliance on the judgment of Larger Bench of this Court in the case of ***Bhimidipati Annapoorna Bhavani Vs. Land Acquisition Officer, Yeluru Reservoir Project, Peddapuram, East Godavari District, A.P. and others***¹. In the said judgment, this Court, at paragraph Nos.26 and 27, held as under:

“26. The above discussion would lead us to hold that the power, which the High Court exercises under Article 226 of the Constitution, is a discretionary power. Though the power is discretionary and no limits can be placed upon such discretion, it has been held judicially that power must be exercised along recognised lines and not

¹ 2005 (3) ALD 233 (LB)

arbitrarily. There are no limits to such power and has to be exercised judiciously. However, while exercising this power Courts have imposed certain limits in exercise of those powers, which are known as self-imposed limitations. One of the self-imposed restrictions is that High Court generally refrains from entertaining a writ petition when there is adequate and efficacious alternate remedy available to a party, and, when such alternate remedy available is a statutory remedy, such statutory remedy has been duly exhausted. Availability of such alternate and efficacious or statutory remedy itself is not a bar in entertaining a writ petition in the given facts and circumstances. We need not multiply the circumstances in which such discretionary power may be exercised by the Court in such matters despite availability of such alternate, adequate and efficacious remedy. But the limits as noticed in *B. Govinda Reddy's* case surpa by a learned Single Judge of this Court are sufficient that in cases arising out of the Act where the amount of compensation, finally determined has not been paid, a person must first resort to the alternate efficacious remedy of taking out execution and when despite taking out execution proceedings, if there is any delay caused on the part of authorities, resort can be had to filing of a writ petition in this Court and, this Court, while exercising its discretionary jurisdiction, in appropriate cases, may issue directions for immediate deposit of the amount of compensation by the State Government or the authorities on whose behalf the land has been acquired.

27. In view of the above, we hold that the view taken by the Full Bench in *Vemula Prabhakar's* case that in a matter arising out of the Act, writ petition under Article 226 of the Constitution seeking direction against the State to deposit the amount of compensation determined which has finally been settled will not be maintainable is bad and contrary to the principles of law as noticed hereinabove and accordingly we overrule the same and hold that the view taken by the learned Single Judge in *B. Govinda Reddy's* case is the correct exposition of law.”

5. According to the learned Government Pleader for Land Acquisition, the issue is at the stage of obtaining opinion from the Office of the learned Advocate General. Since, admittedly the order and decree passed by the reference Court became final and as the Government, in fact, issued necessary orders *vide* G.O.RT.No.828, Irrigation & CAD (PW.LA.III.A2) Department, dated 28.09.2009, earlier, this Court absolutely does not find any justification on the part of the respondents herein in withholding the amount payable to the petitioner herein *vide* the order of the reference Court in O.P.No.8 of 2001.

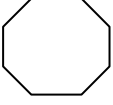
6. For the above said reasons, the Writ Petition is allowed, directing the respondents herein to pay the amount of compensation payable to the petitioner as claimed in E.P.No.14 of 2009 in O.P.No.8 of 2001, on the file of the Court of the Senior Civil Judge, Asifabad, with interest, as per law, within a period of six (6) months from the date of receipt of a copy of this order. There shall be no order as to costs.

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

A.V.SESHA SAI, J

Date: 28th April, 2017

KL



HON'BLE SRI JUSTICE A.V.SESHA SAI



WRIT PETITION No.12956 of 2017

Date: 28th April, 2017

KL