

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.7362 of 2009

ORDER:

Heard Sri P.Gangarami Reddy for petitioners and Assistant Government Pleader for Land Acquisition for respondent Nos.4 and 5.

The petitioners pray for mandamus declaring the non-payment of ex gratia to the wells in existence along with compensation paid to the lands acquired from petitioners, as illegal, arbitrary and unconstitutional.

The averments in brief are that the respondents on 24.01.2006 and 06.07.2006 issued notification under Section 4 (1) and draft declaration under Section 6 of the Land Acquisition Act, 1894, respectively. Independent awards have been passed between 28.07.2007 till 02.02.2008. Now, the complaint is that the respondents while paying the compensation have not separately calculated and paid compensation to the irrigation wells in existence in the lands acquired by respondents. Hence, the writ petition.

The respondents filed counter-affidavit and relied upon the principle laid down by the Hon'ble Supreme Court in **State of Bihar Vs. Madheshwar Prasad**¹ following **P.Ram Reddy Vs. Land Acquisition Officer, Hyderabad Urban Development Authority**².

The relevant portion of the **Madheshwar Prasad**'s case reads:

¹ (1996) 6 Supreme Court Cases 197

² (1995) 2 Supreme Court Cases 305

“But, the fact is that the lands are situated very near to the national highway but 4 km away from Jamshedpur city. Under these circumstances, taking into consideration the facts and circumstances, we are of the view that the reasonable compensation would be Rs.22,000/- per acre. The claimants are not entitled to the value of the well i.e., Rs.20,000/- since the well was being used for irrigation of the land. For this reason, it cannot be separately valued as held by this Court in O.Janardhan Reddy V. Spl. Dy. Collector ((1994) 6 SCC 456).”

Sri P.Gangarami Reddy, having regard to the binding precedent on which the denial of payment of ex gratia is justified by respondents, has not seriously contested the writ prayer.

I have perused the writ averments, the grievance of petitioners and also the ratio of the Apex Court. I am satisfied the denial or exclusion of ex gratia for the wells in existence in the lands acquired by respondents is justifiable.

Writ petition fails and is dismissed. There shall be no order as to costs.

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

S.V.BHATT,J

Dt:31.07.2017

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