

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.2013 OF 2007

Date 26.12.2017

Between:

D.Sesharatnam and others.

... Petitioners

AND

The District Collector, Visakhapatnam
and others.

.....Respondents



HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.2013 of 2007

ORDER:

The Writ Petition is filed seeking a direction to respondents to refer the matter to the Civil Court under Section 18 of the Land Acquisition Act, 1894 (the Act).

Brief facts, according to the petitioners, are that their lands in Sy.Nos.3/6, 5/1, 7/1 and 6/1 in Bayyavaram Village, Yalamanchili Mandal, Visakhapatnam District were acquired in the year 2006 for construction of Indira Sagar Project Left Irrigation Channel; they were kept in dark and were not informed about passing of award and no statutory notices were served on them; compensation was received under protest; despite their reminders dated 20.11.2006 and 28.11.2006 to refer to the Civil Court, but, in vain; and, hence, the writ petition.

Counter affidavit has been filed on behalf of the respondent *inter alia* stating that notification, under Section 4(1) of the Act, was published on 12.03.2006; negotiations were held with the land owners; the District Level Negotiations Committee, under the chairmanship of the District Collector, Visakhapatnam, during the meeting held on 29.05.2006, offered and fixed Rs.1,85,000/- per acre and additional amount of Rs.20,000/- per acre in which borewell exists and compensation to fruit bearing tress and non-fruit bearing trees and structures be paid as per the valuation

report obtained from the assessing department; the petitioners also attended the meeting and had given their consent along with other land losers; agreement was executed in Form-III by each awardee and a sworn statement was obtained to the effect that he/she will not claim for payment of higher compensation in any court of law or in any other forum and shall abide to the award made by the Land Acquisition Officer; award enquiry was conducted and notices under Sections 9(1) and 10 of the Act were issued; award was passed on 09.10.2006; petitioners received compensation under acknowledgment without any protest on 10.10.2006 by way of cheques; after receiving compensation, petitioners filed representation in November 2006 seeking copy of the award and to refer their cases to the Civil Court under Section 18 of the Act; and as negotiated settlement was reached before the District Level Negotiation Committee regarding compensation payable to the land losers and consent award was passed pursuant to the consent affidavit given by the petitioners for the rates offered by the District Level Negotiations Committee, question of referring the matter to Civil Court does not arise.

Copy of the award was also sent to the petitioners through post as requested. Again as per the orders of this Court in WPMP.No.2557 of 2007 in WP.No.2013 of 2007, a copy of the award Nos.4 and 4A of 2006 dated 09.10.2006 and 05.03.2007 respectively were furnished to the petitioners under proper acknowledgment.

When the matter was heard on 05.12.2017, learned Government Pleader for Land Acquisition was directed to produce original records showing receipt of compensation by the petitioners but, Xerox copy of the record is produced before this Court.

Learned Government Pleader for Land Acquisition relies upon receipts, enclosed in the records, containing signature of the petitioners. The said receipt is with regard to additional compensation given for trees, structures and borewells. The said record also contains a copy of the award dated 09.10.2006 which describes the award as the consent award.

No reply affidavit has been filed disputing the contents of the counter affidavit. However, counsel for the petitioner contends that award is not a consent award. After perusal of the records, learned counsel for the petitioners admits that the receipt contains signatures of the petitioners without any protest. In view of the fact that award passed is a consent award, respondents could not make a reference under Section 18 of the Act.

The Writ Petition fails and is, accordingly, dismissed. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Dt:26.12.2017
 usd

