

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.3552 OF 2017

ORDER:

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

“Declaring the notification G2/2452/2006 dated 23- 5-2006 and the consequential Award No.1 dated 20-6-2008 in respect of Ac.1-48 cents in S.No 51/2A (Ac.1-71 cents in S.No. 51/2) of C.Rayavaram, H/o Yeleswaram, Yeleswaram Mandal, East Godavari District as illegal, arbitrary, lapsed by virtue of Sec 24(2) The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 and Article 300-A of the Constitution of India and consequently set aside the notification G2/2452/2006 dated 23-5-2006 and the consequential Award No.1 dated 20-6-2008 in respect of Ac.1-48 cents in S.No 51/2A (Ac.1-71 cents in S.No. 51/2) of C.Rayavaram, I-I/o Yeleswaram, Yeleswaram Mandal, East Godavari District and pass such other order as are deemed fit and proper.

2. Heard Sri S.Subba Reddy, learned counsel for the petitioner and learned Government Pleader for Land Acquisition for the respondents.

3. According to the petitioner, he is the absolute owner of the property, admeasuring Ac.1.71 cents in S.No.51/2 and Ac.0.59 cents in Sy.No.44/1 of C.Rayavaram Village, Yeleswaram Mandal, East Godavari District having purchased the said property by way of registered sale deed dated 29-04-1989. The 2nd respondent-District Collector issued a notification under the provisions of Sub-section.1 of Section 4 of the Land Acquisition Act,1894 for the purpose of acquiring the above said lands. Eventually, the Land Acquisition Officer-cum-Revenue Divisional Officer,

Peddapuram, 3rd respondent herein, passed an award No.1/08, dated 20-06-2008. The validity of the said award passed by the 3rd respondent is under challenge in the present Writ petition.

4. Principally, the contention of the learned counsel for petitioner is that in view of the provisions of Sub-section (2) of Section.24 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act,2013 (for brevity “the Act”) the award has lapsed. In support of his contention, learned counsel for petitioner placed reliance on the judgment of Hon'ble Apex Court in *Pune Municipal Corporation Vs. Harakchand Misirimal Solanki*(¹).

5. On the other hand, it is the submission of the learned Government Pleader, on instructions, that the authorities deposited the compensation amount in the revenue account and the land owner refused to take notice under Section 9(1) and 10 of the Land Acquisition Act,1894. In order to consider the present issue on hand, it may be appropriate to refer to the provisions of Sub-section (2) of Section 24 of the Act, which reads as under:-

“Sec.24: Land Acquisition process under Land Acquisition Act,1894 shall be deemed to have lapsed in certain cases:-

(1)....

¹ (2014) 3 SCC 183

(2)... Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act.

Provided that where an Award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries then. All beneficiaries specified in the notification for acquisition under Section 4 of the Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act”.

6. In fact, the above said provision of law came up for consideration before the Hon'ble Apex Court in the judgment cited supra by the learned counsel for petitioner. In the said judgment, the Hon'ble Apex Court at para.20 held as under:-

“From the above, it is clear that the award pertaining to the subject land has been made by the Special Land Acquisition Officer more than five years prior to the commencement of the 2013 Act. It is also admitted position that compensation so awarded has neither been paid to the landowners/persons interested nor deposited in the court. The deposit of compensation amount in the Government treasury is of no avail and cannot be held to be equivalent to compensation aid to the landowners/persons interested. We have, therefore, no hesitation in holding that the subject land acquisition proceedings shall be deemed to have lapsed under Section 24(2) of the 2013 Act.”

7. In the instant case, according to the petitioner, the possession of the land has not yet been taken nor the respondents have deposited the amount as contemplated under the said provision of law. Therefore, the law laid down in the above referred judgment is squarely applicable to the facts of the present case also.

8. For the aforesaid reasons, the writ petition is allowed, setting aside the Notification No.G2/2452/2006, dated 23-05-2006 and Award No.1/08, dated 20-06-2008 pertaining to the lands of the petitioner.

9. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

09.02.2017
TSNR

A.V.SESHA SAI, J