

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 25325 of 2009

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WRIT PETITION No. 10623 of 2013

COMMON ORDER:

Writ Petition No. 25325 of 2009 has been filed seeking to declare the action of the respondents in proposing to take possession of the land in an extent of Ac.0.21 cents in R.S. No. 9/2 A of Guruvindagunta Village of Pedaparupudi Mandal, Krishna District as illegal and arbitrary. Writ Petition No. 10623 of 2013 has been filed to declare the notification issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act'), dated 23.05.2006, invoking the urgency clause under Section 17(4), duly dispensing with the enquiry under Section 5-A and declaration under Section 6 of the Act in respect of the above said land, as arbitrary.

The petitioners claim that they are the owners of the above-detailed land, for which land acquisition proceedings were initiated for the purpose of providing house sites to the weaker sections and access to the land which is earmarked for house sites for weaker sections. They challenged the said notification on the following grounds:

- 1) Section 5-A enquiry has been dispensed with invoking Section 17(1) &(4) of the Act without there being any urgency;
- 2) No notice was issued to the petitioners in terms of Section 17 and the amount as required has not been deposited; and
- 3) Having invoked the urgency clause, the possession of the land was not taken over by the respondent

authorities and even as on date, the petitioners are in possession of the subject land.

A counter-affidavit has been filed by the 3rd respondent Land Acquisition Officer -cum- Revenue Divisional Officer, Gudivada Division, wherein it has been stated that the subject land has been acquired *vide* Award dated 04.05.2007 after publication of draft notification and draft declaration on 05.07.2006, invoking the urgency clause. It has also been stated that the Award inquiry was conducted on 30.08.2006 and the amount has been deposited in Senior Civil Judge's Court at Gudivada under Section 31(2) of the Act. Meeting the specific allegations of the petitioners, it was categorically set out that notices were served on Sri Ganji Venkata Swamy, the 2nd petitioners, who, in fact, had attended the Award inquiry on 30.08.2006 and further represented that the amount also belongs to his brother, who is the 1st petitioner. It is further asserted that possession was taken on 03.09.2006 along with the other lands, which were notified. As a matter of fact, the petitioners' land is the access road to the house sites from the main road and for the said land, pattas were also granted in favour of the beneficiaries. Interim order granted in favour of the petitioners to maintain *status quo* with regard to the possession was vacated by this Court and the assertion of the petitioners that they are in possession of the land is not true.

Learned counsel for the petitioners, placing reliance on the judgments of the Supreme Court in ***Prahlad Singh v. Union of***

India¹, Raghbir Singh Sehrawat v. State of Haryana² and **Patasi Devi v. State of Haryana³**, contends that if the possession of the land acquired is not taken, the land acquisition proceedings will lapse and the delay in challenging the land acquisition proceedings cannot be attributed to the petitioners, for, it violates their right under Section 300-A of the Constitution of India.

Heard learned Government Pleader for Land Acquisition on behalf of the respondents.

Having considered the respective submissions, at the outset, it may be noted that there is no denial of the fact that the Award has been made on 04.05.2007. There is also no denial of the fact that the Award amount has been deposited with the civil Court. So far as the delay in deposit of the amount is concerned, it has been explained that there was confusion with regard to the aspect in whose favour, the amount has to be deposited. The explanation submitted is plausible.

Further, the material papers on record contain the statement signed by the 2nd petitioner during the Award inquiry. As a matter of fact, the 2nd petitioner, who represented the 1st petitioner, who, at that particular point of time, appears to be working in R&B Department, had categorically stated that the 1st petitioner also is entitled for compensation. Inasmuch as apportionment of compensation is not discernible from the material placed before the Land Acquisition Officer, decision appears to have been taken to deposit the money with the civil Court. The factum of the

¹ (2011) 5 SCC 386

² (2012) 1 SCC 792

³ 2013(1) ALD 20 (SC)

possession having been taken is disputed by the learned counsel for the petitioners based on the judgments of the Supreme Court cited supra.

It may be noted that the Writ Petition itself came to be filed in the year 2013 for which explanation has been given that in 2009, initially, a Writ Petition was filed and the same was withdrawn, to cure certain defects. In other words, the filing of the Writ Petition itself is at a belated stage. The record discloses that the possession was taken over by the respondent authorities under the panchnama. Even assuming for the sake of argument, the possession was taken at a belated stage, that, by itself, cannot invalidate the land acquisition proceedings. Further, it may be noted that the Award, which has been made, has not been challenged before this Court and thus land acquisition proceedings have attained finality. In those circumstances, there being no legal infirmity, the Writ Petitions are liable to be dismissed and are accordingly dismissed.

At this stage, learned counsel for the petitioners submits that the petitioners, being landless poor persons, are entitled to be allotted the house site pattas. In the event the petitioners are entitled for allotment of house site pattas, the same shall be considered by the respective authorities in accordance with law.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

27th June 2017

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