

THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

ASMP No.641 of 2017

&

A.S.No.149 of 2006

JUDGMENT:

ASMP No.641 of 2017 is filed to receive the two documents, viz., (1) copy of order dated 06.08.2010 in W.P.No.13539 of 2004; and (2) copy of the order dated 20.09.2012 in File No.F1/2403/2010 of the Joint Collector Nizamabad, as additional evidence and marked as exhibits.

In view of the submissions made in the accompanying affidavit, and since the said documents are official record, the ASMP is allowed and the documents are received as additional evidence and marked as Exs.A8 and A9.

The appeal is filed against the orders of the learned 1st Additional District Judge, Nizamabad in O.P.No.8 of 2003, dated 01.08.2005.

Heard the learned counsel for the appellants and the claimants 1 and 2.

Notice to the 3rd respondent was not served and subsequently, paper publication was taken out and in spite of that there is no appearance on behalf of the 3rd respondent/claimant.

The appellants are claimants Nos.1 & 2 and their lands were acquired. The Land Acquisition Officer also passed an award for Rs.3,80,100/- and originally apportioned the same in favour of two claimants. Subsequently, the 3rd respondent herein, viz., Abdul Qayyum Siddiqui Mufti filed an application before the District Collector, Nizamabad, and as per the directions, the Special Deputy Collector/Land Acquisition Officer made a reference to the Civil Court under Section 30 of the Land

Acquisition Act. The Tribunal has held that since there is dispute between the claimants Nos.1 and 2 on one hand and the 3rd respondent on the other hand, directed them to get the dispute dissolved in civil court. Hence the appeal.

The main basis for the claim made by the 3rd respondent herein is Ex.B1, which is the order of the Joint Collector, Nizamabad in Case No.D2/3/2004, dated 10.06.2004. This order of the Joint Collector was challenged by claimants Nos.1 and 2 by filing W.P.No.13539 of 2004 and by order dated 06.08.2010, this court allowed the writ petition and set aside the order of the Joint Collector, dated 10.06.2004 and the matter was remitted to the learned Joint Collector, Nizamabad directing to reconsider the entire issue and pass appropriate orders. The order copy of this court, dated 06.08.2010 in W.P.No.13539/2004 is marked as Ex.A8.

In pursuance to the said directions of this court, the Joint Collector, Nizamabad has took up the representation and after hearing the claimants Nos.1 and 2 and also the 3rd respondent, allowed the appeal, upholding the grant of occupancy right certificates in favour of claimants Nos.1 and 2. The Joint Collector also directed the Tahsildar to issue pattedar passbooks to claimants Nos.1 and 2. The copy of the order, dated 20.09.2012 in File No.F1/2403/2010, of the Joint Collector, Nizamabad, is marked as Ex.A9.

In view of the said orders of the Joint Collector, the claim of the 3rd respondent herein has been negatived and he has no right whatsoever over the subject lands. Except for Ex.B1, nothing is produced by the 3rd respondent so as to hold that he is entitled to any amount of compensation for the lands acquired. The very basis of the claim made

by the 3rd respondent is Ex.B1 and the same has been set aside and the title of the claimants Nos.1 and 2 has been upheld by the Joint Collector, which became final.

In that view of the matter, the Appeal needs to be allowed, holding that claimants Nos.1 and 2 are alone entitled to compensation determined by the Land Acquisition Officer.

Accordingly, the ASMP as well as the Appeal are allowed and the impugned order is set aside.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAI SWAL,J

Appendix of Evidence
Witnesses examined

For Appellants

- None -

For Respondents

_ None –

Exhibits marked

For Appellants

Ex.A8: Copy of the order dated 06.08.2010 in W.P.No.13539/2004

Ex.A9: Copy of the order dated 20.09.2012 in File No.F1/2403/2010
passed by the Joint Collector, Nizamabad.

For Respondents

-Nil –

M.S.K.JAI SWAL,J

Date: 22.03.2017
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