

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.19758 OF 2017

ORDER:

Heard learned counsel for petitioners and the Government Pleader for respondents.

As per the averments made by the petitioners, the first petitioner owns an extent of Acs.1.38 guntas in Survey No.22/11 of Komatichenu Village of Kasipet Mandal, Mancheriyal District, whereas the second petitioner owns an extent of Acs.2.39 guntas in Survey No.22/12 of the same village. The said extent was recorded in pattadar pass books. While so, the then Government of Andhra Pradesh issued a Notification on 20.11.2012 followed by a Declaration proposing to acquire an extent of Acs.71.31 guntas for the purpose of establishing a coal mine, namely, Kasipet-2 incline of Mandamarry area situated at Kasipet Mandal of Mancheriyal District. Though the entire land was taken over, when compensation was paid only to an extent of Acs.1.00 guntas to the first petitioner and Acs.1.02 guntas to the second petitioner, the present writ petition is filed challenging the inaction of the second respondent in not disposing of the petitioners' representation dated 10.04.2017.

Now a counter affidavit is filed by the third respondent stating that an extent of Acs.71.31 guntas was sought to be acquired under Notification dated 20.11.2012 and the said land is situated at Komatichenu Village of Kasipet Mandal, presently in Mancheriyal District. Survey No.22 is of an extent of Acs.29.29 guntas, out of which, Acs.21.06 guntas were acquired for formation of KK-2 incline and the said land was sought to be acquired under Draft Declaration. The petitioners are pattadars of an extent of Acs.1.38 guntas and Acs.2.39 guntas respectively in Survey No.22 of the said village. The Draft Notification and Draft Declaration pertain to Acs.1.00 guntas of the first petitioner and Acs.1.02 guntas of the

second petitioner. During Award enquiry, the first petitioner appeared and stated that Acs.1.00 guntas was notified, since the entire land was taken possession, she shall be paid compensation for the entire extent of land. Similarly, the second petitioner appeared and sought payment of compensation for the entire land as entire land was acquired though the Notification showed only an extent of Acs.1.02 guntas, but the Award was passed for an extent of Acs.1.00 guntas and Acs.1.02 guntas only. There was no recommendation for acquiring balance extent of Acs.2.35 guntas and the petitioners filed W.P.No.10827 of 2016, wherein the second respondent, the District Collector, was directed to take a decision on the communication made by the third respondent on 20.11.2015. The second respondent passed an order on 22.02.2017.

A reading of the order passed by the second respondent dated 22.02.2017 shows that after receipt of the representation from the two petitioners, the land was re-surveyed and re-survey disclosed as follows.

Sl. No.	Name of pattedar	Extent as per pahani	Extent already acquired	Extent in possession as per re-survey	Excess land in possession	Remarks
1	Padala Kavitha W/o Prathap	1.20	0.30	0.10	1.00	Compensation excess paid to an extent of 0.20 Gts., and also she occupied more A.00 acre land pertains to petitioners
2	Ramtenki Shankar	2.25	0.35	0.05	--	Compensation excess paid to an extent of 0.30 gts

The Tahsildar, Kasipet, was directed to invoke the provisions of the Revenue Recovery Act for the excess amount paid to the above persons and the petitioners were asked to proceed according to law for recovery of their land. Since the said order was not in compliance with the orders

passed by this Court in W.P.No.10827 of 2016, dated 16.08.2016, the second respondent was held guilty of the orders of the Court and a show cause notice was issued for his conviction. It appears that the contempt appeal was preferred against the said order dated 06.04.2017 in C.C.No.234 of 2017 and the same is pending.

Be that as it may, now it is clear that only an extent of Acs.1.00 guntas and Acs.1.02 guntas of lands of the petitioners were acquired and award was passed in respect of the same. The petitioners were the owners of Acs.1.38 guntas and Acs.2.39 guntas originally. If the possession of the remaining extent of lands, Acs.0.38 guntas and Acs.1.37 guntas of lands of the petitioners, was not taken by the respondents, it is open to the petitioners to take possession and enjoy the same in accordance with law. If the possession was already taken over by the respondents 3 and 4, they are directed to hand over the possession of the same to the petitioners. It is needless to observe that since there is no categorical averment with regard to possession, if the petitioners are in possession of their respective properties, the respondents shall not interfere with the balance extent of lands, which were not acquired under the Notification.

The writ petition is accordingly disposed of. Consequently, miscellaneous petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

16.08.2017
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