

HON' BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No. 2271 of 2007

ORDER:

This writ petition is filed by the petitioners seeking a writ of mandamus, declaring the action of the 2nd respondent in trying to disburse the compensation amount for the land of the petitioners in an extent of Ac.3.36 cents in Sy.No.13 of Rudramkota village, Velerupadu Mandal, Khammam district, which was acquired under the Notification, bearing Rc.No.G/ 1742/ 2006, dated 16.08.2006 to the 3rd respondent as illegal, arbitrary and without jurisdiction and consequently to direct the respondents-authorities to pay the compensation amount of the said land to the petitioners only.

2. The brief facts of the case, according to the petitioners, are that the 1st petitioner filed the writ petition and deposed on his behalf and also on behalf of the 2nd petitioner, as he is authorized to do so. The 1st petitioner states that the 2nd petitioner herein is the son of his elder brother late Sri Sundara Ramaiah and they constitute a Hindu joint family. Their family inherited the above agricultural land from their ancestors, and they have leased out the same to Sri Kakarla Suryaprakash Rao, and after his death his son-in-law Sri Chittoori Gopalakrishna, who is the 3rd respondent herein, has been cultivating the said land.

3. While so, the Government acquired the above land by Notification dated 16.08.2006 under Sec.4(1) of the Land Acquisition Act (for short, 'the Act'), in which, the name of the brother of 1st petitioner was shown as pattedar and the name of the 3rd respondent was shown as enjoyer. Further, the 3rd

respondent, who is shown as enjoyer of the land, with the support of the authorities, have manipulated the record to show that he is entitled for the compensation for the land of the petitioners. Therefore, the petitioners submitted representations to the 2nd respondent on 29.12.2006 requesting to pay the compensation to them only. But without any kind of notice, the respondents are trying to disburse the compensation amount to the 3rd respondent herein. Hence, the writ petition.

4. The official respondents have filed their counter-affidavit stating that the 2nd petitioner herein has no knowledge about the filing of the present writ petition and he has attended before the 2nd respondent on 19.01.2007 and filed a written representation stating that the subject land was the property of his father late Kovvuri Sundara Ramaiah and the same was disposed of to one Kakarla Surya Prakash Rao in 1960 itself. He also stated that the subject land was under the occupation and enjoyment of late Kakarla Suryaprakash Rao during his life time, and later the 3rd respondent herein, being the successor, is in occupation and enjoyment of the same. Therefore, the 2nd petitioner has expressed no-objection to pay the compensation amount to the 3rd respondent herein.

The respondent-authorities further submit that the 1st petitioner has not attended the award enquiry to file objections, and the 2nd petitioner attended on 19.01.2007 with the above said written representation and expressed no-objection for paying the compensation to the 3rd respondent. 3rd Respondent attended the

enquiry and submitted pattadar pass book etc., showing his title to the land acquired. Hence, it is submitted that the compensation amount was paid to the 3rd respondent herein.

5. No reply whatsoever has been filed by the 1st petitioner in reply to the counter-affidavit filed by the official respondents denying his title over the subject land.

6. Heard both sides and considered the material on record.

7. The learned Government Pleader submits that the 1st petitioner has no right whatsoever over the subject land and he never participated in the Award enquiry. On the other hand, the 2nd petitioner has appeared before the respondents-authorities and submitted a written representation stating that the 1st petitioner has no right over the subject land and, in fact, they have sold the same to the father-in-law of the 3rd respondent herein, who is the successor and in physical possession of the subject land, and thereby the 2nd petitioner has expressed no-objection for the payment of the compensation to the 3rd respondent herein.

8. From the above it is clear that the 2nd petitioner has filed a declaration before the authorities stating that they have no right over the acquired land and the 3rd respondent is the pattadar and enjoyer of the said land and therefore entitled for compensation. The 3rd respondent has participated in the award proceedings and a consent award has been passed on 05.02.2007 under Sec.11(2) of the Act. As there is no dispute before the respondent-authorities with regard to the title of the land, the matter was not referred to the Civil Court, and therefore, the authorities paid an amount of

Rs.4,48,500/- as compensation to the 3rd respondent, after coming to the conclusion that he is the real owner, being successor in title, and enjoyer of the land.

9. In view of the above, I see no merit in the present writ petition and the same is accordingly dismissed. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

KONGARA VIJAYA LAKSHMI, J

Date:05.12.2017
Kv

