

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

WRIT PETITION No.36988 of 2014

ORDER:

In the present Writ Petition, challenge is to the action of the respondents in not depositing the compensation amount pursuant to the order and decree, dated 21.07.2010, passed in O.P.No.543 of 2002.

The lands of the petitioners were acquired by the Government for excavation of main canal of SRSP from KMs 302.500 to 304.000. Award No.15/2001-02 vide File No.A1/1667/2002, dated 26.03.2002 was passed by the third respondent - Special Deputy Collector, determining the compensation @ Rs.32,000/- per acre. Not satisfied with the said quantum of compensation awarded by the Land Acquisition Officer, the petitioners along with certain others sought reference under Section 18 of the Land Acquisition Act, 1894 and the said reference was answered by the Court of II Additional District Judge, Warangal, vide order and decree, dated 21.07.2010, in O.P.No.543 of 2002 and the Reference Court enhanced the compensation from Rs.32,000/- to Rs.60,000/- per acre for dry lands and Rs.70,000/- per acre for wet lands. According to the petitioners, the said order and decree became final and no appeal was preferred against the same. Thereafter, the petitioners filed

E.P.No.18 of 2014 for enforcement of the said order and decree on the file of the Court of II Additional District Judge, Warangal.

The grievance of the petitioners in the present Writ Petition is, though approximately 3 years period expired, no amount has been deposited by the respondent authorities to the credit of the said Execution Petition and because of the said reason, the petitioners are suffering irreparable loss and hardship having lost their properties.

Learned counsel for the petitioners has placed on record a judgment rendered by a Larger Bench of this Court in the case of **Bhimidipati Annapoorna Bhavani v. Land Acquisition Officer, Yeluru Reservoir Project, Peddapuram, East Godavari District and others**¹. In the said judgment, this Court at paragraphs 26 and 27 held as under:

“The above discussion would lead us to hold that the power, which the High Court exercises under Article 226 of the Constitution, is a discretionary power. Though the power is discretionary and no limits can be placed upon such discretion, it has been held judicially that power must be exercised along recognized lines and not arbitrarily. There are no limits to such power and has to be exercised judiciously. However, while exercising this power Courts have imposed certain limits in exercise of those powers, which are known as self-imposed limitations. One of the self-imposed restrictions is that High Court generally refrains from entertaining a Writ Petition when there is adequate and efficacious alternate remedy available to a party, and, when such alternate remedy available is a statutory remedy, such statutory remedy has been duly

¹ 2005(3) ALD 233 (LB)

exhausted. Availability of such alternate and efficacious or statutory remedy itself is not a bar in entertaining a Writ Petition in the given facts and circumstances. We need not multiply the circumstances in which such discretionary power may be exercised by the Court in such matters despite availability of such alternate, adequate and efficacious remedy. But the limits as noticed in *B. Govinda Reddy's* case supra by a learned Single Judge of this Court are sufficient that in cases arising out of the Act where the amount of compensation, finally determined has not been paid, a person must first resort to the alternate efficacious remedy of taking out execution and when despite taking out execution proceedings, if there is any delay caused on the part of authorities, resort can be had to filing a Writ Petition in this Court and, this Court, while exercising its discretionary jurisdiction, in appropriate cases, may issue directions for immediate deposit of the amount of compensation by the State Government or the authorities on whose behalf the land has been acquired.

In view of the above, we hold that the view taken by the Full Bench in *Vemula Prabhakar's* case that in a matter arising out of the Act, Writ Petition under Article 226 of the Constitution seeking direction against the State to deposit the amount of compensation determined which has finally been settled will not be maintainable is bad and contrary to the principles of law as noticed hereinabove and accordingly we overrule the same and hold that the view taken by the learned Single Judge in *B. Govinda Reddy's* case is the correct exposition of law.”

It is submitted by the learned Government Pleaders for the Departments of Land Acquisition and Irrigation & Command Area Development that having availed the alternative remedy of filing Execution Petition as mentioned supra, it is not open for the petitioners to approach this Court under Article 226 of the Constitution of India simultaneously for the same relief. It is also submitted by the learned Government Pleaders that the proposals

are now pending with the Government and it would take some time for taking appropriate action.

A reading of the above extracted portion of the judgment clearly shows that when sufficient period has expired, mere filing of Execution Petition before the Executing Court seeking enforcement of the decree passed by the Reference Court is not a ground for rejecting the relief in the present Writ Petition.

Admittedly, in the present case, though the petitioners approached the Executing Court as long back as in the year 2014, no amount has been deposited by the respondents so far.

For the aforesaid reasons, the Writ Petition is disposed of, directing the respondents to pay the compensation amount to the petitioners in terms of the order and decree, dated 21.07.2010, in O.P.No.543 of 2002, within a period of six months from the date of receipt of a copy of this order.

Consequently, Miscellaneous Petitions, if any pending in this Writ Petition, shall stand closed. No order as to costs.

A.V.SESHA SAI, J

18th APRIL, 2017.

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