

HON' BLE SRI JUSTICE S. V. BHATT

Writ Petition No.5351 of 2009

ORDER:

Heard Mr. K. Ratnam for petitioners and the Assistant Government Pleader (Acquisition) for respondents.

2. The petitioners pray for *mandamus* declaring action of the respondents in not granting compensation for the trees i.e., coconut, mango, guava, oil palm cashew nut, eucalyptuses, bomboo trees etc. covered by the lands acquired in Yerrakaluva Project at Valampatla Village, West Godavari District, as illegal, arbitrary and unconstitutional. The land is acquired due to submerging. The petitioners' complain against non consideration of the representations dated 25.04.2004 and 06.06.2008, as illegal and arbitrary.

3. The circumstances are not in dispute and are also in a limited sphere. The 2nd respondent passed Award Nos.14 and 15 of 2005 dated 28.02.2005 and Award No.3 of 2014 dated 15.02.2004. The complaint of the petitioners is that the 2nd respondent has not awarded compensation to the trees in existence in the lands acquired through Award Nos.3 of 2004, 14 and 15 of 2005. The petitioners claiming compensation for the trees, filed representations dated 25.04.2004 and 06.06.2008.

4. The 2nd respondent filed counter-affidavit and according to 2nd respondent, the respondents acquired land in an extent of Ac.105.79 cents in RS No.1/ 2 and 9/ 2A etc. of Vallampatla Village, T. Narasapuram Mandal. Under Section 11(2) of the Land Acquisition Act, Award No.3 of 2004 dated 15.03.2004 for an extent of Ac.63.09 cents was passed and the said award includes payment of compensation to the lands of the

petitioners herein. The categorical assertion based on record available in this behalf is that 2nd respondent passed the award on the consent given by petitioners. According to 2nd respondent, the compensation is determined in accordance with law by the Committee. The Committee held negotiations with the stakeholders and compensation was fixed basing on the negotiations held in this behalf. Therefore, the compensation determined is a package deal and there is no compensation payable to trees, wells etc. Further, the petitioners received compensation without protest and submitted representation after one month from the date of receipt of information. Hence the demand is untenable.

5. I have perused the affidavit and also counter-affidavit of 2nd respondent. The petitioners participated in the negotiations conducted for determination of compensation payable to the lands acquired in Yerrakaluva Project and compensation was negotiated and arrived at between parties. The petitioners cannot after receiving the compensation, complain that they are also entitled to receive compensation for the trees separately, allegedly in existence in the lands acquired by respondents. Even on the existence or otherwise, trees or number of trees etc., the 2nd respondent has given a few details and further explained that there are no trees in the lands acquired by respondents except a few trees were in existence in the case of 6th petitioner.

6. Having regard to the negotiations held, mutually acceptable compensation determined and received, this court is of the view that non payment of compensation separately for trees is tenable and no

exception can be taken to the inaction of the respondents in disposing of the representations filed by petitioners.

7. The writ petition fails and is accordingly dismissed. No order as to costs. Pending miscellaneous petitions if any in this writ petition shall stand dismissed in consequence.

Date: 31.07.2017
BSS

S.V. BHATT, J



HON'BLE SRI JUSTICE S.V. BHATT

27

Writ Petition No.5351 of 2009



Date: 31.07.2017

BSS