

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.27991 of 2008

ORDER:

The present Writ Petition came to be filed seeking issuance of Writ of Mandamus declaring the action of the 1st respondent in not referring the dispute of rival claims for grant of compensation under the provisions of the Land Acquisition Act, 1894 (for short "the Act") to the civil court in respect of the land in Sy.No.69 admeasuring Ac.1.15 gts., situated at Bhupalpally village and Mandal, Warangal District, as illegal and arbitrary.

2. By an order dated 23.12.2008, this Court granted interim directions as prayed for, viz., directing the 1st respondent not to disburse the compensation under the provisions of the Act, to respondents 2 to 5.

3. The record shows that in spite of service of notice on respondents 2 to 5, there is no representation on their behalf.

4. The averments filed in support of the Writ Petition are to the effect that the petitioner claims to be the pattadar and possessor of agricultural land to an extent referred to above coming under acquisition for KTK-3 Incline. It is stated that, in the revenue records, the name of the petitioner is reflected as pattadar and in the occupation column, the name of his father was shown. He placed on record pahanies for the year 2002-2003, which show the name of the petitioner as pattadar. After issuing notification under Section 4(1) of the Act, the 1st respondent issued notices under Sections 9(3) and 10 to the petitioner on 19.04.2008, directing him to appear at the office of the Tahsildar, Bhupalpally, to

participate in the enquiry. The petitioner claims to have appeared before the 1st respondent and gave his statement along with relevant documents in support of his claim. Since there was no action on the part of the 1st respondent, he claims to have made a representation on 20.12.2008, seeking payment of compensation. He is said to have met the 1st respondent, demanding him either to refer the matter to civil court or pay compensation. The averments in the affidavit also show that respondents 2 to 5 are claiming compensation as if they are the purchasers of the land. The inaction on the part of the 1st respondent is the subject matter of challenge in the present Writ Petition.

5. A counter came to be filed by the Sub-Collector, Mulug, Warangal District, denying the averments made in support of the Writ Petition, except to the extent admitted by him. It is stated that petitioner is neither pattadar nor occupant or is in possession of the land, and, as such, he is not entitled for any compensation. It is stated that the Project Officer, Singareni Collieries Company Limited, Bhupalpally filed requisition for acquisition of lands, which led to issuance of notification under Section 4(1) of the Act. It is stated that as per pahani for the year 2001-2002 of Bhupalpally, names of the pattadar and occupant of Sy.No.69 are Madhe Naik and Hanuma Naik respectively, whereas the name of the petitioner is Bhukya Manja Naik. It is stated that, in the affidavit filed in support of the Writ Petition, petitioner twisted his name, by showing it as Bhukya Madhe Naik @ Manja Naik, while, in the sworn statement, he referred to his name as Bhukya Manja Naik without any alias name. It is further stated that, during the award enquiry, which was

conducted on 24.01.2008, 25.10.2008, 14.11.2008 and 24.11.2008, the petitioner failed to attend the enquiry, whereas other persons who are claiming the land have attended the enquiry and submitted their objections. It is further stated that the land is in the physical possession of the contesting respondents and that Pokkuri Mallaiah and Pokkuri Laxmaiah are the title holders, having purchased the land and obtained pattadar pass books of the land. They in turn sold the same to Challuri Chinna Malaiah and Challuri Sammaiah. It is further stated that award was pronounced on 20.12.2008 and there is no provision to refer the case to Court under Section 30 of the Act, for the reason that consent affidavit prescribed under the Rules was already signed by the persons believed to be interested over the land and the negotiations committee has accepted the consent and approved the award under Section 11(1) (A) of the Act. In view of the interim order, the amount could not be disbursed to the beneficiaries.

6. Reiterating the averments made in the affidavit filed in support of the Writ Petition, learned counsel for the petitioner mainly contends that since the petitioner is the owner of the land and since the dispute is raised with regard to ownership of the property, the authority ought to have referred the matter to the civil court under Section 30 of the Act, instead of ordering payment of compensation to the unofficial respondents herein.

7. The same is strongly opposed by the learned Government Pleader, stating that there is no material to show that petitioner is the owner of the property.

8. According to the draft notification, the pattadar in Sy.No.69 is Madhe Naik and occupant is Hanuma Naik. In the affidavit filed in support of the Writ Petition, his name is shown as Bhukya Madhe Naik @ Manja Naik and in the sworn statement there is no reference to the alias name. Though the occupant's name is common in all the documents, a doubt arises as to who the pattadar is. Be that as it may, it is also to be noted that, in the petition dated 03.03.2008, submitted in the office of the 1st respondent, the petitioner has categorically stated that he is unable to identify the land and requested to appoint a surveyor for re-survey. A memo was issued to the surveyor to conduct re-survey and a copy of the memo was also served on the petitioner with a request to proceed to the spot along with documentary evidence. The petitioner failed to attend re-survey. During the award enquiry, which was held on 24.01.2008, 25.10.2008, 14.11.2008 and 24.11.2008, the petitioner failed to attend on all these dates. On the other hand, the unofficial respondents attended the enquiry and claimed their share. Only on the date of pronouncement of award, petitioner filed an application claiming compensation for the entire extent of Ac.1.15 gts., subject to verification. As stated earlier, only two documents came to be filed by the petitioner, claiming right over the property. They are adangal copies of the year 1991-92 and 2002-03, wherein the name of the pattadar is shown as Madhe Naik (petitioner). On the other hand, the Sub-Collector placed number of documents along with his counter to show that unofficial respondents are the persons who are entitled for compensation. He placed on record the pattadar passbooks bearing Nos.270362 and 270364 issued in favour of Pokkuri Mallaiah and Pokkuri Laxmaiah, which show

that out of the total extent, they have jointly sold Ac.0.15 gts. to Challuri Chinna Mallaiah and Ac.0.28 gts., to Challuri Sammaiah and that the land is under their physical possession. The record also shows that one Nagavath Kishan filed a petition stating that petitioner is the pattadar in Sy.No.69, who is his grandfather. He placed on record photocopies of pahani and E.C. in respect of some other Sy.Nos.170, 193 and 212, which relate to the land pertaining to his grandfather. In the absence of any material to show that petitioner is the owner of the land and merely because he raised objection, it does not mean that reference under Section 30 is necessary. The above finding gets corroboration from a Division Bench judgment of this Court in **Govindu Venkata Reddy vs K. Krishna Rao And Anr**¹ wherein it is held that there should be some cogent material on record to refer the dispute to civil court. Further, it is well established principle that entries in the Revenue records do not confer title.

9. Hence, I do not find any merits in the Writ Petition and the same is accordingly dismissed. However, petitioner is always at liberty to approach the civil court seeking declaration with regard to title and payment of compensation.

C. PRAVEEN KUMAR, J

8th February, 2017
MRR

¹ AIR 1982 (AP) 86