HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION NO.5521 OF 2011

ORDER:

1. This Writ Petition is filed seeking to declare the action of the 2nd respondent in not awarding statutory benefits to the petitioners in respect of their lands acquired under the amended Land Acquisition Act, i.e., 30% solatium, 12% additional market value and interest accrued thereon in Award No.16/10, dated 30.4.2010, and also to declare the action of the 2nd respondent in deducting tax at source at the rate of 10% on the total compensation under Section 194-LA of the Income Tax Act, as arbitrary and illegal, and consequently, to direct the 2nd respondent to pass a supplementary award and pay the amounts arrived thereon to the petitioners.

2. It is the case of the petitioners that the National Highways Authority of India acquired the lands of the petitioners and others for widening NH-9 from KM 190.856 to 192.341 in Hyderabad to Vijayawada section in Gowravaram village of Jaggayyapeta Mandal, Krishna District. The 2nd respondent vide Award No.16/2010 dated 30.4.2010 fixed the market value of the lands under acquisition at the rate of Rs.4.50 lakhs per acre and directed to pay Rs.113/- per sq. meter. The 2nd respondent fixed the market value of the site/house at the rate of Rs.300/- per sq. yard payable in sq. meters at the rate of Rs.363/- per sq. meter. The 2nd respondent deducted 10% of the total compensation payable to the petitioner towards income tax at source and ordered for payment of remaining amount to the petitioners. The 2nd respondent has not paid any interest on the aggregate amount i.e., on the market value of the lands under acquisition and also

12% additional market value and interest from the date of taking possession of the lands i.e., from 28.1.2009.

3. Further, it is the case of the petitioners that in other cases i.e., in order to widen National Highway-9 for the purpose of 4/6 lane from existing 2 lanes, some lands/sites of others were acquired and in that connection, the competent authorities passed awards for payment of compensation of market value with statutory benefits as per the amended Land Acquisition Act i.e., market value, 30% solatium, 12% additional market value and interest from the date of taking possession. But in the instant case, the 2nd respondent passed the award with respect to the land of the petitioners by awarding market value only, without awarding the statutory benefits. It is also the case of the petitioners that the action of the 2nd respondent in deducting the income tax at source from the compensation payable to the petitioners is illegal and arbitrary and even though the petitioners are liable to pay the tax to the income tax department, there cannot be any deduction at source as per the decision of this Court in Rana Pratap Singh and Others Vs. Land Acquisition Officer and others[1].

4. During the course of arguments, it is also brought to the notice of this Court that for the relief, which is sought in this writ petition, an arbitration application is filed before the Joint Collector, Vijayawada, who is competent authority to decide the issue, and the said application is pending.

5. Considering the prayer of the petitioners, which is to the extent of solatium, 12% of the additional market value, interest accrued thereon,

[1] 1998(5) ALD 299

and also the grievance of the petitioners in connection with the deduction of tax at source at the rate of 10% on the total compensation, which is contrary to the provisions of the Income Tax Act, this Court is of the view that this Writ Petition can be disposed of with the following direction:

> "The Arbitrator is directed to dispose of the Arbitration application as expeditiously as possible, more preferably within a period of three months from the date of receipt of a copy of this order."

6. With the above direction, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

Justice Raja Elango

Dated: 7.3.2017.
Nn

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.5521 of 2011

7.3.2017

Nn