

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.2398 OF 2009

ORDER:

This writ petition is filed seeking to declare the Award No.26/1999-2000 dated 23.01.1999 as null and void to the extent of awarding compensation amounts to the 2nd respondent herein by suppressing the petitioner's legal ownership over the subject land viz., Ac.0.8 cents situated at Reach No.8 of Sy.No.176/6 in Thuduru Village, consisting of two cattle sheds and pay the compensation amounts to the petitioner.

2) The facts of the case according to the petitioner are that he is the resident of Thuduru village of Atluru Mandal, and is having Ac.0.8 cents of land in Rach No.8 of Sy.No.176/6 in Thuduru Village in which there are two cattle sheds existing on the said land. The subject lands are the ancestral properties of the petitioner. It is stated that the Executive Engineer, I & P.D., Somasila Project (Division-4), Atmakur has sent a requisition for acquiring the lands to a tune of Ac.303.72 cents in Thundur Village of Atloor Mandal, Kadapa District. The said lands were divided into 8 Reaches and the petitioner's lands were covered by Reach No.8. The 1st respondent authorities instead of paying the compensation amount of Rs.1,45,956/- to the petitioner's family, the cheque was given to one Smt Palle Yellamma, Wife of Narayana Reddy, who is the 2nd respondent herein who is not even the petitioner's villager vide the impugned award of the 1st respondent. The property for which the compensation is paid is the ancestral property of the petitioner and it had been in the possession and enjoyment of the petitioner. In this regard, the petitioner has

submitted a representation on 19.03.2008 to the 1st respondent requesting him to enquire into the matter and rectify the mistake. But till date, no steps have been taken by the 1st respondent.

3) A detailed counter affidavit is filed by the 1st respondent stating that the petitioner filed the present writ petition suppressing the true and correct facts of the case; that the petitioner filed the present writ petition to blackmail the 2nd respondent and make unlawful gain. It is nothing but gross abuse of process of law. The petitioner and the 2nd respondent received their respective shares of compensation without any dispute and protest under the impugned award. The 2nd respondent not satisfied with the compensation awarded by the Land Acquisition Officer, filed an application Under Section 28-A of the Land Acquisition Act, 1894 (for short, "the Act") for re-determination of compensation on par with claimant in LAOP No.814/07 in LAC No.150/08 dated 31.3.2008. The petitioner did not file any application under Section 28-A of the Act. During the award enquiry, the Pattadars and Enjoyers of the lands including the petitioner have attended before the Land Acquisition Officer and gave statement to the effect that there are no interese disputes between them with regard to shares and disbursements. The enquiry reveal that the following four Pattadars and Enjoyers are enjoying the lands situated in Sy.No.176/6 and the existing structures to an extent of Ac.0.8 cents. The 2nd respondent was shown as in possession of Ac.0.3 cents of land for which structural value was shown as Rs.1,45,956/-. One Smt M.V. Subbamma who is the wife of the petitioner was shown as in possession of Ac.0.02 cents and one Smt P. Padmavathima is the

wife of Naga Obula Reddy is said to be in possession of Ac.0.2 cents of land and the petitioner herein was shown in possession of Ac.0.1 cent of land. The total extent of the land is Ac.0.8 cents. They gave consent statement before the Enquiry Officer and no objections have been received with regard to their possession and enjoyment of the land. When the enhanced compensation was about to be paid to the 2nd respondent as per the award and her entitlement, the petitioner filed the present writ petition suppressing all the facts to stall the payment of enhanced compensation to the 2nd respondent in order to blackmail her and compensation amount was also paid to the awarders. The petitioner did not dispute about the payment of the amount to the 2nd respondent and prays for dismissal of the writ petition.

4) The 2nd respondent died during the pendency of the writ petition and vide order dated 16.03.2012 of this Court in W.P.M.P.No.7099 of 2012, the legal heirs of the 2nd respondent were brought on record as respondents 3 to 5.

5) The 3rd respondent who is the husband of the 2nd respondent filed a counter affidavit along with the Vacate Stay petition stating that he is the husband of the 2nd respondent. He stated that the Government acquired Ac.0.3 cents of land belonging to his wife in Sy.No.176/6 of Thuduru Village, Atlur Mandal, Kadapa District. It is further stated that after the award enquiry, an award was passed and his wife was awarded an amount of Rs.1,45,956/- to the value of the structures on the said land. It is also stated that the petitioner's wife has also received the compensation amount for two structures and his mother has received the compensation for one structure. In the award enquiry, mother, wife and father of the

petitioner participated and they have not filed any objections to receive the compensation as per the award. Petitioner's wife, mother and the father have stated that they have no objections to receive the compensation as per the award.

6) While admitting the writ petition on 11.02.2009, this Court in W.P.M.P.No.3059 of 2009 has passed an order granting status quo obtaining as on that day, as to payment of compensation amount under the impugned award, pending further orders. W.V.M.P No.667 of 2010 was filed seeking vacation of the interim order. However on 2.11.2012, interim order was made absolute.

7) Heard the learned counsel for the petitioner and the learned counsel for the respondents 3 to 5.

8) The contention of the learned counsel for the petitioner is that the petitioner is in possession of Ac.0.8 cents of land situated in Sy.No.8, Thundur village, Atloor Mandal, Kadapa District and two cattle sheds are existing there on the said land. He submits that the draft notification and draft declaration contains the name of his grand father Sri Mamillapalle Obulesu, S/o.Obulesu and that he is entitled to compensation for the structures on the said extent of Ac.0.8 cents of land. He drew the attention of this Court to the award dated 23.1.1999 wherein it is stated as follows:

“According to the award, the lands stand registered in the name of Sri Mamillapalle Obulesu. At present the land is under the enjoyment of the following persons:

1. Smt P. Yellamma, W/o. Narayanareddy
2. Smt M.V. Subbamma, W/o. Obulareddy
3. Smt M. Padmavathamma, W/o. Naga Obulareddy
4. Sri M. Obulareddy, S/o.Obulareddy

They got the land by way a of hereditary". The award enquiry reveals that the land is under the possession and enjoyment of the above said person. The enjoyers have been accepted the extent and their shares noted against their names and agreed for award valuation allowed to them as detailed below. The respectable V.A.O and ryots have corroborated the facts. No objections have been received in this regard. Hence, the amount of compensation due on the land is awarded to 1) Smt P. Yellamma, W/o. Narayanareddy, 2) M. Venkata Subbamma, W/o. Obulreddy, 3) M. Padmavathamma, W/o. Naga Obulareddy, 4) M. Obula Reddy, S/o. Obula Reddy. The award shows that the land stands in the name of M. Obulareddy but all the four persons were shows to be enjoyment of the said land. The award also clearly mentions all the four names and the extent to which they are entitled to.

9) As can be seen from the counter-affidavit, the petitioner attended the award enquiry along with other pattadars and enjoyers of the above said lands and gave his statement that there are no disputes between them with regard to the shares and disbursements. It is also stated in the counter-affidavit that they have also gave consent statement before the enquiry officer and no objection whatsoever have been received with regard to their possession and enjoyment of the land. It is further stated that at the time of payment of compensation to the 2nd respondent, the petitioner did not raise any disputes whatsoever. No reply whatsoever has been filed by the petitioner disputing the contents of the counter-affidavit filed by the 1st respondent. The contention of the petitioner is that he filed a representation dated 19.03.2008 before the 1st respondent stating that the compensation has been

paid to the 2nd respondent, but she is not even their villager. He stated that his representation is not disposed off till now. But the said representation does not contain any acknowledgment whatsoever.

10) Petitioner having kept quiet from 23.01.1999 when the award was passed, filed the present writ petition in January, 2009 i.e., exactly ten years after passing of the award. When the petitioner himself did not approach the Court disputing the award for ten long years and when the award clearly shows the name of the 2nd respondent and the petitioner's family members showing the extents and structures, there is no justification for the petitioner to contend that he is entitled to the compensation for the structures on Ac.0.3 cents of land where the name of the respondent No.2 is shown. The petitioner approached this Court after the 2nd respondent filed an application under Section 28-A of the Act for re-determination of the compensation for an extent of Ac.0.3 cents of land in Sy.No.176/6 for two structures. The said proposal was submitted to the Special Collector GNSS, Kadapa for approval and the proposals were accepted by the Special Collector and award was passed in favour of the 2nd respondent. At this stage, the present writ petition has been filed. No explanation has been given whatsoever for approaching the Court after ten years of passing of the award. In these circumstances, there is no merit in the writ petition and it is liable to be dismissed. However, this order will not preclude the petitioner from working out his remedies against respondents in accordance with law, if he is so advised.

11) With the above observations, the writ petition is dismissed.
No order as to costs. Consequently, the Miscellaneous Petitions
pending, if any, shall also stand closed.

KONGARA VIJAYA LAKSHMI, J

Date:21.11.2017.
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THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI



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