

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.28955 of 2013

ORDER:

The petitioners are the residents of Madhavaram village, Vontimitta Mandal, Kadapa District. Madhavaram village and surrounding villages were acquired by the respondents for the purpose of Somasila project and a notification under Section 4(1) of the Land Acquisition Act, 1894, was issued on 18.04.1981. An Award was passed on 13.10.1986. The compensation paid to the structures is very low, inadequate and does not represent the real and true market value. But they did not file any application under Section 18 of the Land Acquisition Act for reference to the Court. However, some of the claimants, who are parties to the Award, received the compensation under protest and sought reference under Section 18 of the Land Acquisition Act. The reference applications were referred to the civil Court and the same was numbered as L.A.O.P.No.2449 of 1988 by the court of Senior Civil Judge, Rajampet, Kadapa District. The Award was passed by the reference Court on 06.04.1998, enhancing the market value of the structures by 100% over and above the market value fixed by the Land Acquisition Officer and also awarded all statutory benefits as per the Land Acquisition Act. When the petitioners came to know about the same, they filed applications under Section 28-A of the Land Acquisition Act on 29.06.1998 for re-determination of the compensation on the basis of the said Award of the Court. When the said applications were not disposed of, they filed W.P.No.1190 of 2011 and in view of the interim directions granted therein, the

3rd respondent conducted Award enquiry and passed Award on 30.11.2011, as per Section 28-A of the Land Acquisition Act, and fixed the compensation to the structures at the rate of 80% over and above the market value fixed by the Land Acquisition Officer and failed to communicate the copy of the Award under Section 28-A of the Land Acquisition Act. The petitioners, however, collected a xerox copy of the Award, dated 30.11.2011, and by the time they came to know of the same, an appeal in A.S.No.1979 of 2004 filed by the respondents was pending before this Court. The said appeal was ultimately disposed of by this Court on 02.01.2012. In the appeal, this Court held that the claimants are not entitled to 100% enhancement but they are entitled to enhancement by 80% over and above the market value fixed by the Land Acquisition Officer, together with statutory benefits like additional market value, interest and solatium, in accordance with law.

In view of the judgment and decree of this Court in A.S.No.1979 of 2004, dated 02.01.2012, the petitioners submitted a representation on 10.02.2012 to the respondents to modify the Award passed on 30.11.2011 and to pay the necessary statutory benefits of interest on solatium and additional market value. On the representation of the 1st petitioner, the 1st respondent called for report from the respondents 2 and 3 and when no further action is taken, the petitioner got issued a notice on 13.06.2013. When no action was taken, the present writ petition is filed.

A counter affidavit is filed stating that the amount as per the re-determined compensation was paid and the claimants received

the amount without any protest. It is also stated that the claimants are well educated persons and have good knowledge with land acquisition matters and they filed the present writ petition in order to get monetary benefit by misleading the Court. It is also stated that the claimants have received the enhanced compensation at the rate of 80% without interest on 30% solatium and additional market value on their own request through their advocate G.Rama Linga Reddy. Accordingly, the re-determined compensation under Section 28-A of the Land Acquisition Act was paid to the writ petitioners/claimants and they have received the said amount without any objection and if they have any grievance, they have to seek remedy under Section 28-A (3) of the Land Acquisition Act, 1894.

A reply affidavit is filed stating that the petitioners did not seek any relief under Section 18 of the Land Acquisition Act and though the Award was passed on the application for re-determination on 30.11.2011, no amount was paid to them pursuant to the Award, dated 30.11.2011. It is also stated that they have submitted a representation on 10.02.2012.

Since the facts in the instant case are not clear, this Court is not in a position to conclusively give a finding with regard to the entitlement of the petitioners. But in view of the representation submitted by the petitioners on 10.02.2012, followed by a legal notice, dated 13.06.2013, the respondents 2 and 3 are directed to consider the said representation, verify the record and pass appropriate orders in accordance with law, within a period of eight (08) weeks from the date of receipt of the order. If the petitioners

are entitled for any compensation pursuant to the re-determination, the said compensation shall be paid within the said period.

The writ petition is accordingly disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A. RAMALINGESWARA RAO, J

12th October, 2017
Bvv

