

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.13346 OF 2017

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, challenging the land acquisition proceedings initiated pursuant to the Notification issued under Section 4 (1) of the Land Acquisition Act, 1894 (for short, 'the Act') and Declaration issued under Section 6 of the Act, dated 11.02.2004, which culminated in passing the Award in RC.B/1013/95, dated 25.11.2009, in respect of the subject properties.

2. The only contention advanced in the present Writ Petition is that in view of the provisions of Sub Section 2 of Section 24 of Act 30 of 2013, the entire proceedings have been elapsed and it is obligatory on the part of the respondents herein to initiate proceedings afresh under the new Act of 2013 if they want the subject properties.

3. In the present case, admittedly 4 (1) Notification was issued on 09.02.2004 and Award under Section 11 (1) of the Act was passed on 25.11.2009. In order to examine the contention of learned counsel for the petitioner, it would be appropriate to refer to the provisions of Section 24 of Act 30 of 2013, which read as under:

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.

(1).....

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of

1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act: Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

4. According to Sub Section 2 of Section 24 of the new Act, if Award is made five years or more prior to commencement of the new Act, but the physical possession of the land has not been taken or compensation has not been paid, the entire proceedings shall be deemed to have elapsed.

5. In the instant case, the Award came to be passed on 25.11.2009. Therefore, five years period as stipulated under Sub Section 2 of Section 24 of Act 30 of 2013 did not expire by the time of commencement of the new Act, which came into force from 01.04.2014. Therefore, the contention advanced by learned counsel for the petitioner does not merit any consideration and accordingly, the writ petition is liable to be dismissed.

6. Accordingly, the Writ Petition is dismissed. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

APRIL 17, 2017
YVL



THE HON'BLE SRI JUSTICE A.V. SESA SAI



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Date: 17.04.2017

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