

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 4902 OF 2012

ORDER:

This Writ Petition is filed to declare the inaction of the 2nd respondent Special Deputy Collector, Land Acquisition (General) in paying the compensation to the petitioner in respect of the residential house bearing No. 34-408/62, Plot No. 62, admeasuring 263 square yards in Survey No. 212/1 near Railway Bridge No. 747-D (ROB), Ammuguda Railway Station, Malkajgiri Municipality, Ranga Reddy District, despite deposit of compensation by Respondents 4 to 6 *vide* cheque bearing No. 086030, dated 15.04.1993 for a sum of Rs.3 lacs, as illegal and arbitrary.

The facts are not in dispute. The grievance of the petitioner is that a small portion of his residential house in the premises detailed above, was acquired by the railway authorities for the purpose of track development, particularly for the construction of railway bridge. In spite of the notice got issued to the railway authorities, no compensation has been paid to the petitioner, but he was informed that the land acquisition proceedings have been initiated and urgency clause under Section 17(4) of the Land Acquisition Act, 1894 has been invoked. It, however, transpired that the railway authorities represented by Respondents 3 to 6 had, in fact, deposited a sum of Rs.3 lacs *vide* cheque bearing No. 086030 on 15.04.1993 in favour of the Special Deputy Collector, Land Acquisition (General), Nampally, Hyderabad, who had not taken further steps initiating the land acquisition proceedings as per the railway regulations. Having come to know of the said fact, the petitioner filed the present Writ Petition seeking the above

relief. Thereafter, he also filed W.P.M.P.No.13201 of 2016 seeking amendment of the prayer of the Writ Petition. The said Application was resisted by the learned Standing Counsel for Respondents 3 to 6, on the ground that what all the petitioner prayed was payment of Rs.3 lacs, which amount was already deposited by their clients in favour of the 2nd respondent. In other words, the petitioner was satisfied with the compensation amount as on the date of taking possession as adequate and just. As a matter of fact, it is not in dispute that no acquisition proceedings as such were initiated by the 2nd respondent Special Deputy Collector, though a request was made by the respondent railway authorities.

At this stage, learned Government Pleader for Land Acquisition has placed before this Court the letter dated 09.06.2017 addressed to him by the Special Deputy Collector, Land Acquisition (Industries), wherein it has been stated that the subject land is covered under urban land ceiling proceedings and as soon as the railway authorities file a requisition in Form-I as per Act 30 of 2013, necessary proceedings would be initiated and compensation would be paid to the petitioner.

In the counter-affidavit filed by the 2nd respondent in December 2012, it was admitted that Rs.3 lacs was deposited with him, but however, the said amount was not transferred to the Special Deputy Collector, Land Acquisition (Industries), Ranga Reddy District. It is further stated that a fresh requisition is required to be given by the railway authorities. Yet another objection raised in the counter-affidavit is that the extent of Acs.30 of land in Survey No. 212, Malkajgiri Village is covered under urban land ceiling proceedings. However, no details were given

with respect to the declarant and whether the same has been determined as surplus, etcetera.

The fact of the matter is that a portion of the petitioner's house was utilized by the railways. As on today, there is no possibility of initiation of land acquisition proceedings either under 1894 Act or under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as, admittedly, the possession of the property was taken over in 1993 for which the petitioner himself had claimed a sum of Rs.3 lacs as compensation through his legal notice which the railway authorities are willing to pay. In fact, the said amount has already been deposited in favour of the 2nd respondent. In the peculiar facts of the case, as it is not possible for initiation of land acquisition proceedings under the 2013 Act, the amendment sought to be made to the prayer of the Writ Petition cannot be ordered. W.P.M.P.No. 13201 of 2016 is therefore, dismissed. However, in the interests of justice, the petitioner shall be required to be compensated for the loss suffered by him on account of non-payment of the amount payable to him, which was, in fact, lying with the 2nd respondent.

In those circumstances, the petitioner shall be paid Rs. 3 lacs along with interest @ 8% per annum from 15.04.1993 till the date of payment. The principal and interest shall be paid by the 2nd respondent as it is only on account of the inaction on his part, the petitioner had to suffer.

Accordingly, the Writ Petition is allowed with a direction to the 2nd respondent to pay Rs. 3 lacs with interest at 8% per annum with effect from 15.04.1993 till the date of payment. This entire

exercise shall be completed within three months from the date of receipt of a copy of this order. No costs.

Consequently, the miscellaneous Applications, if any shall stand disposed of.

CHALLA KODANDA RAM, J

13th June 2017

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