

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT APPEAL Nos.606 AND 607 OF 2017

COMMON JUDGMENT: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

We find considerable force in the submission of Sri O. Manohar Reddy, Learned Counsel for the appellants, that this Court would, ordinarily, not sit in judgment over the decision taken by the authorities concerned in stipulating a particular alignment of the canal, as it is always open to those, whose lands are sought to be acquired, to put forth their objections under Section 15 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 after a notification is issued under Section 11(1) thereof. In the present case, the direction in the Writ Petition is to change the proposed alignment of the canal, even before a notification was issued under Section 11(1) of the Act.

We cannot, however, ignore the fact that the order of the Learned Single Judge has already been substantially implemented. Learned Government Pleader for irrigation, on instructions, states that consequent upon the change in alignment, as directed by the Learned Single Judge, construction of the entire canal, except for a short length of around 300 metres, has already been completed.

Nearly two and half years have elapsed, since the Learned Single Judge passed the order. While the petitioner has no doubt invoked the appellate jurisdiction of this Court, under Clause 15 of the Letters Patent, on 06.03.2017, contending that he was not a party to the Writ Petition, the fact remains that, even by the time the petitioner preferred this appeal, more than 545 days had

elapsed after the Learned Single Judge had passed the order under appeal. We consider it appropriate, therefore, to leave the question of law open as to whether this Court, in proceedings under Article 226 of the Constitution of India would examine the validity of the proposed alignment of a canal, based on certain recommendations, when these are all matters for the officials concerned to decide. Since the excavation of the canal is almost complete, no useful purpose would, however, be served in interfering with the order under appeal.

Subject to the aforesaid observations, both the appeals fail and are, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.



RAMESH RANGANATHAN, ACJ

GUDISEVA SHYAM PRASAD, J

Date: 04.12.2017

MRKR