

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Appeal No. 1496 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 24805 of 2017 dated 16.8.2017. The appellants herein are the petitioners in W.P.No.24805 of 2017 which, along with W.P. No. 25175 of 2017, was disposed of by a common order.

In the order under appeal, the learned Single Judge noted that the petitioners' lands and houses were taken over under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "Act 30/2013") for the purpose of construction of Mid-Manair Reservoir; compensation for the lands was paid during 2008-09, dividing the lands into three categories A,B & C; there was a dispute regarding valuation of the structures, and it was periodically estimated by constituting committees; the petitioners' grievance was that their villages were coming under submergence, and proper rehabilitation and re-settlement was not provided in respect of those villages; and, in the interregnum, a public notice was issued on 4.7.2017 asking them to vacate their lands.

The learned Single Judge further held that the land acquisition proceedings had become final, and what remained was only settlement of the compensation amount for the structures; there was a dispute with regards the existence of structures, which

could not be decided in the writ petition; the structural value had to be determined by the competent authority, and the provisions of Act 30 of 2013 were very clear on this aspect; Section 77 read with Section 64 dealt with the same; and since there was a dispute, with regard to payment of the compensation amount, the respondents should, without waiting for a written application to be made to the Collector, refer the matter to the Authority constituted under Section 51 of the Act within a period of 30 days from the date of receipt of a copy of the order by recording the existing structures as on date, and forwarding the objections of the petitioners to the said Authority. The Learned Single Judge directed the Authority to determine, on the basis of the evidence, the amount of compensation payable to the petitioners for the structures as expeditiously as possible. The appellants-writ petitioners were granted liberty to agitate their rights, with regards structural compensation, before the competent authority.

Mrs. B. Rachna, learned counsel for the appellants-writ petitioners, would submit that while the earlier estimates of the structural value of the buildings owned by the appellants-writ petitioners, including the structural value estimated by a Three Man Committee, showed a higher market value for the subject buildings, the respondents had later caused a fresh estimation, of the structural value of the buildings to be made, and had fixed a far lower market value than what was prescribed earlier; and it is only if the authorities are directed to cause a fresh estimation of the market value of the structures, can it be properly determined whether or not the structural value, payable under the award, is in accordance with the provisions of Act 30 of 2013.

According to Mrs.B.Rachana, Learned Counsel for the appellants, the structural value of the subject buildings have so far been estimated around four times. She would also state that the earlier estimation, of the structural value of the buildings, by the three man committee reflects the correct market value of these structures. If that be so, nothing prevents the appellants-petitioners from relying on the three man committee report before the Authority constituted under Section 51 of Act 30 of 2013, and seek higher compensation for the structures acquired by the Government. Acceding to the request of the appellants-petitioners, for a fresh estimation to be caused, would be of no avail. Since an Award has already been passed with respect to the subject lands and structures under acquisition, the dispute whether the fresh estimation reflects the correct market value of the subject structures are again matters for examination only by the Authority under Section 51 of Act 30 of 2013.

The learned Single Judge has safeguarded the interests of the appellants by specifying a time frame of 30 days for the Authority to determine the amount of compensation payable to them. He has also granted the appellants-petitioners liberty to agitate their rights, with regards the structural compensation, before the Competent Authority. In an intra-Court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal. Suffice it to make it clear that the Authority, under Section 51 of the 2013 Act, shall comply with the directions of the learned Single Judge, and decide the matter within the time frame stipulated in the order under appeal.

After we had dictated the order, Mrs. B. Rachna, learned counsel for the appellants, would seek three weeks time for the appellants to vacate the subject lands and structures. Both the learned Government Pleader for Land Acquisition, and learned Government Pleader for Irrigation, would submit that water is required to be impounded by the end of this month; and any delay would affect the interests of the farmers to whom the stored water is required to be supplied. Suffice it, therefore, to direct that, for a period of one week from today, the respondents shall not take any coercive steps to evict the appellants-writ petitioners from the subject lands and buildings.

The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(M. GANGA RAO, J)

12th October, 2017

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