

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Mr. JUSTICE ABHINAND KUMAR SHAVILI

Writ Appeal No.1666 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 of the learned Single Judge in W.P. No. 35390 of 2015 dated 10.10.2017. The appellant herein is the petitioner in the Writ Petition wherein he sought a mandamus to declare the action of the respondents in passing the award dated 28.5.2015, beyond two years of the notification issued under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the "1894 Act") on 22.9.2012, as arbitrary and illegal.

Facts, to the limited extent necessary, are that a notification was issued under Section 4(1) of the 1894 Act on 22.9.2012. The Section 6 declaration was issued on 2.9.2013, and an award was passed on 25.8.2015. As no award was passed prior to 1.1.2014, on which date the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (hereinafter referred to as "the 2013 Act") came into force, the appellant-writ petitioner was paid enhanced compensation under Section 24(1)(a) of the 2013 Act on the market value of the subject property as on 22.9.2012, the date on which the Section 4(1) notification was issued. The appellant-writ petitioner, however, contended that the market value should be determined as on 25.8.2015, i.e., the date of the award, and not the date on which the Section 4(1) notification was issued.

In the order under appeal, the learned Single Judge observed that the compensation was calculated as per Section 24(1)(a) of the

2013 Act, and was fixed at Rs.10,325/- per square yard in respect of certain extents of land, and at Rs.11,000/- per square yard in respect of certain other extents; though the award was passed on 25.8.2015, the appellant-writ petitioner had filed an application on 3.9.2015 for payment of enhanced compensation at Rs.17,000/- per square yard as per the market value mentioned by the Sub-Registrar; and though the appellant-writ petitioner was advised to make an application under Section 64 of the 2013 Act, he chose not to do so. The learned Single Judge noted that, in I.A. No. 1704 of 2014 in O.S. No. 99 of 2010, the Revenue Divisional Officer, Kakinada was directed to deposit the compensation amount in Court. The learned Single Judge observed that, in view of the dispute, the District Collector, East Godavari should refer the matter to the competent authority under Section 64 of the 2013 Act within a period of eight (8) weeks from the date of receipt of a copy of the order; and it was for the competent authority to determine the compensation amount to which the appellant-writ petitioner, and the plaintiffs in O.S. No.99 of 2010, were entitled to.

Before us Sri J.U.M.V. Prasad, learned counsel for the appellant-writ petitioner, would submit that, since an award was not passed within two years from the date of the Section 4(1) notification, the land acquisition proceedings must be deemed to have lapsed in its entirety; the appellant-writ petitioner has not sought for land acquisition proceedings to be initiated afresh, and is content with the market value being determined as on the date of the award; and the Learned Single Judge erred in not granting the relief sought for by the appellant-writ petitioner.

Section 11-A of the 1894 Act required an award, under Section 11 of the said Act, to be made within two years from the date of publication of the declaration; and failure, to pass such an award, was to result in the lapse of the entire land acquisition proceedings. The two year period, under Section 11A of the 1894 Act, is required to be computed not from the date of the Section 4(1) notification but from the date on which the declaration under Section 6 of the 1894 Act was issued. As noted hereinabove, the Section 6 declaration was issued on 2.9.2013, and the award was passed on 25.8.2015, well within the two year period stipulated under Section 11-A of the 1894 Act.

Section 24(1)(a) of the 2013 Act stipulates that, in cases where land acquisition proceedings are initiated under the 1894 Act and no award under Section 11 of the 1894 Act has been made, then all the provisions of the 2013 Act, for determination of the compensation, shall apply. Section 24(1)(a) requires enhanced compensation, under the 2013 Act, to be paid to all awards made after 1.1.2014 with respect to notifications, issued for acquisition, under the 1894 Act; and as the award, in the present case, was passed on 28.5.2015, the respondents have computed the compensation payable for such acquisition only in terms of Section 24(1)(a) of the 2013 Act, and not in terms of the 1894 Act.

The appellant-writ petitioner's claim, for enhanced compensation, can always be agitated before the competent authority under Section 64 of the 2013 Act. The question whether or not he is entitled to be paid the enhanced compensation, claimed by him, are again matters which this Court would not, ordinarily,

enquire in proceedings under Article 226 of the Constitution of India.

We see no reason, therefore, to interfere with the order under appeal. 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)

(ABHINAND KUMAR SHAVILI, J)

10th November, 2017

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