

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.39550 OF 2017

O R D E R

The case of the petitioners, as per the averments made in the affidavit filed in support of the writ petition, is that the Government issued notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') for acquiring the land and house properties of the petitioners', on 28.12.1994, for Somasila project. By invoking urgency clause under Section 17(4) of the Act, enquiry under Section 5-A of the Act, was dispensed with and the declaration under Section 6 of the Act dated 7.4.1995, was published on 9.04.1995. As the subject properties were under inundation of the foreshore area of the project, the petitioners were dispossessed on 29.10.1999 as per the proceedings of the 3rd respondent in D/200/98 dated 29-10-1999, and the classification of the subject land was changed as Somasila Project Poramboke. Award bearing No.2/1999-2000 was passed on 19.2.2000, but no compensation was paid. Thereafter, the 2nd respondent issued fresh notification under Section 4(1) of the Act on 17.09.2002 for the very same properties of the petitioners. The declaration under Section 6 of the Act was published on 7.10.2002. By invoking the urgency clause under Section 17(4) of the Act, enquiry under Section 5-A of the Act, was dispensed with. Subsequently the Empowered Committee, held deliberations with the petitioners, for passing consent award. The petitioners gave consent for the rates of valuation of their properties, but insisted for payment of statutory benefits including the 50% incentive, for giving consent. The grievance of the petitioners is that the Land Acquisition Officer passed award No.1/2003-04 dated 31.12.2003 granting only 25 per cent of the amount of

compensation towards incentive, instead of 50% as agreed upon. He also failed to award interest from the date of taking possession till the date of payment of compensation, as provided under Section 34 of the Act. Hence the writ petition.

The learned counsel for the petitioners, on instructions, confining to the writ prayer to the extent of seeking interest from the date of taking possession till the date of notification under Section 4(1) of the Act, submits that a Division Bench of this court, in similar facts and circumstances, in W.A.No.187 of 2010 dated 1.11.2017, directed the respondents therein, to pay interest at the rate of 12 per cent per annum from the date of taking possession, till the date of notification under Section 4(1) of the Act. He submits that in this case, the possession was taken on 29.10.1999 and the notification under Section 4(1) of the Act was issued on 17.09.2002 and hence interest on the awarded amount, may be directed to be paid at the rate of 12 per cent per annum from the date of taking possession till the date of notification, as per the above Division Bench judgment of this court.

The learned Assistant Government Pleader for Land Acquisition, on instructions, while not disputing the factual aspects of issuing notification under Section 4(1) of the Act on 17.09.2002 and the eventual passing of award dated 31.12.2003, only disputed the date of taking possession of the lands of the petitioners' by the Government. With regard to grant of interest from the date of taking possession, till the date of notification, he submits that the issue is squarely covered by the Division Bench order of this court referred to above.

Having regard to the above facts and circumstances and the submissions of the learned counsel, the 3rd respondent is directed the cause verification of date of taking possession of the lands of the petitioners and accordingly shall pay interest on the award amount at the rate of 12 per cent per annum from the date of taking possession, till 17.09.2002, i.e. the date on notification, apart from other statutory benefits, as per the Division Bench judgment of this court referred to above, within a period of two months from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

DATE: 21—12—2017

AVS



A. RAJASHEKAR REDDY, J