

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND**

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Writ Appeal No.22 of 2018

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

This appeal, under Clause 15 of the Letters Patent, is preferred against the interlocutory order passed by the learned Single Judge in W.P.M.P. No. 52837 of 2017 in W.P. No. 42612 of 2017 dated 27.12.2017.

The respondents herein filed the Writ Petition seeking a mandamus to declare the action of the District Collector, Siddipet in taking up special revision of the market value of the lands in Vemulaghat, and other villages, in Siddipet as illegal, arbitrary, unreasonable, without authority, against principles of natural justice, in violation of the Telangana Revision of Market Value Guidelines Rules, 1998 and Section 47A of the Indian Stamp Act, 1899. A consequential direction was sought to set aside the proceedings of the District Collector dated 5.8.2017, directing the authorities to take up revision, and updating the market value of the lands in the subject villages, in accordance with the statutory rules in force. As interim relief, the respondent-writ petitioners sought suspension of the proceedings of the District Collector dated 5.8.2017.

The District Collector, Siddipet had, vide proceedings dated 5.8.2017, revised the existing market value in the basic value register in eighteen (18) villages in different Mandals. All the respondent-writ petitioners are said to be from Vemulaghat village where the existing market value was revised from Rs.60,000/- per acre to Rs.85,000/- per acre. Questioning the validity of the said proceedings on various grounds, 24 villagers of Vemulaghat filed the Writ Petition and, by an elaborate order, the learned Single Judge granted interim suspension of the proceedings dated 5.8.2017.

Learned Advocate General for the State of Telangana has put forth several contentions in challenge to the validity of the order under appeal. It would however suffice, for the purpose of the present appeal, to examine his contention that the learned Single Judge was not justified in treating those, who voluntarily sold their lands at Rs.6.00 lakhs per acre, on par with those who did not; he had erred in holding that the market value of the land, as reflected in the sale deed dated 7.9.2016, was Rs.6.00 lakhs per acre, and in opining, in several paragraphs of the order including in para-41, that the stand of the respondents that Rs.6.00 lakhs per acre would be paid to those who would give up the land, but they would pay compensation at the revised market value of Rs.85,000/- per acre only if the land is acquired, as the respondent-writ petitioners would then be entitled to avail their remedies under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (hereinafter referred to as "the 2013 Act") in order to secure enhanced compensation, was *prima facie* arbitrary and unreasonable.

Sri K.S. Murthy, learned counsel for the respondent-writ petitioners, would submit that various issues, including composition of the Committees constituted to revise the market value, necessitated examination in the Writ Petition; the sale deed dated 7.9.2016 reflects the market value of the subject land as Rs.6.00 lakhs; consequently, the revision of market rate only to Rs.85,000/- is arbitrary and illegal; in any event, these are all matters which necessitate examination when the Writ Petition is finally heard; and no prejudice would be caused to the authorities concerned by the interlocutory order under appeal.

While it is no doubt true that the said sale deed dated 7.9.2016 refers to Rule 3 of the main market value statement, and records the rate as Rs.6.00 lakhs per acre, Learned Advocate General would draw

our attention to Clause 7 of the very same sale deed wherein the consideration as agreed, by the individual land owner/owners and procuring agency before the District Level Land Procurement Committee, was, *inter alia*, to include the value of land and property, perceived loss of livelihood, and the equivalent costs required for rehabilitation and re-settlement of willing land owners and others. According to the learned Advocate General, the total consideration, in terms of Clause 7 of the sale deed dated 7.9.2016, would include all benefits both in terms of the market value of the land, and in terms of the benefits which they are entitled to under the Second Schedule to the 2013 Act and does not merely reflect the market value of the subject land.

Prima facie, the observation of the learned Single Judge that persons, who voluntarily give up their lands on payment of Rs.6.00 lakhs per acre, should be treated on par with those who did not, (resulting in the State having to initiate proceedings for acquisition of land under the 2013 Act), is not valid. On the sale of his land voluntarily, the owner of the land loses not only his title, but also his right to avail his statutory remedy under Section 64 of the 2013 Act which he would, otherwise, have been entitled to avail, if his lands were acquired under the 2013 Act and on the consideration stipulated in the award being paid to him. If, as has been opined by the learned Single Judge, both categories of land owners are to be treated on par, it would then result in those who have voluntarily sold their lands being deprived of their right to claim enhancement under Section 64 of the 2013 Act, while those who did not would, nonetheless, be entitled to be paid Rs.6.00 lakhs per acre under an award passed under the 2013 Act, and would also be entitled to seek enhancement under Section 64 of the 2013 Act. This would result in those who have voluntarily sold

their lands being discriminated against, when compared to those whose lands are compulsorily acquired, as both would receive Rs.6.00 Lakhs, but the former would not be entitled to seek enhancement, while the latter would, under Section 64 of the 2013 Act. Prima-facie, those who sell their lands voluntarily to the Government, and those whose lands are compulsorily acquired under the 2013 Act, constitute two different and distinct classes. It does appear that the view expressed by the learned Single Judge, that the market value should be fixed at Rs.6.00 lakhs per acre, based on the sale deed and on a parity with those who had voluntarily sold lands, is erroneous.

In proceedings, under Article 226 of the Constitution of India, this Court would not don the robes of the District Collector or take upon itself the task of determining the market value, of the lands, to be prescribed in the basic value register. While fixation of market value of lands in the basic value register is in the District Collector's domain, it is not as if judicial review of such fixation is completely excluded. As the validity of such fixation necessitates examination in the Writ Petition, we may not be understood to have upheld fixation of market value of Rs.85,000/- per acre by the District Collector. These, and other questions, necessitate examination in the Writ Petition after the appellants file their counter-affidavit. Suffice it to make it clear that the interim order of the learned Single Judge cannot be understood as stipulating that the market value of the land, as reflected in the basic value register, should be treated as Rs.6.00 lakhs per acre.

The observations in the order under appeal, which appear to indicate that the market value of the land in the basic value register should be Rs.6.00 lakhs per acre, necessitate being set aside. In all other aspects, we see no reason to interfere with the order under appeal. Learned Advocate-General would seek liberty to file a vacate

stay petition on all other aspects which, though urged before us, have not been dealt with in this order. It is made clear that the order now passed by us shall not disable the appellants from filing a petition seeking vacation of the aforesaid interim order on all aspects which have not been dealt with in this order. Needless to state that such a petition, if filed, shall be decided on its merits without being influenced either by the order under appeal or by the order now passed by us.

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

RAMESH RANGANATHAN, ACJ

GUDISEVA SHYAM PRASAD, J

5th January, 2018
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