

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 1357 of 2018

ORDER :

The endorsement dated 04.12.2017 issued by the 3rd respondent Revenue Divisional Officer, Ananthapuramu, whereunder the request of the petitioners for return of their respective lands, was rejected, is assailed in this Writ Petition.

The case of the petitioners is that their respective lands situated in Survey No. 577, Uravakonda Village & Mandal, Ananthapuramu District came to be acquired through land acquisition proceedings initiated on 27.08.2008. An Award was also passed on 01.07.2011, and that the petitioners were shown to be entitled to receive the compensation mentioned therein. However, it is their further case that, neither the compensation amount has been paid so far nor the land was utilised by the respondent authorities for the purpose for which it was acquired. In those circumstances, the petitioners had made a representation to the 3rd respondent Land Acquisition Officer on 21.10.2017, seeking re-conveyance of the land in their favour. But, the 3rd respondent, without appreciating the legal position as well as the equities in favour of the petitioners, rejected their claim by the impugned proceedings.

Learned counsel for the petitioners, Sri K. Srinivas, takes cue from Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the 2013 Act') and submits that the land acquisition proceedings were initiated in 2008 and an award was also passed on 01.07.2011 under Section 11 of the Land Acquisition Act, 1894, but however, no compensation was paid,

hence, the said proceedings shall be deemed to have lapsed. He would also place reliance on Section 101 of the Act to buttress his argument that the petitioners are entitled to return of the land as it remained unutilized for a period of five years from the date of taking over the possession.

Learned Government Pleader for Revenue (Andhra Pradesh) opposes the Writ Petition. He vehemently argues that Section 24(2) of the 2013 Act is applicable only in cases where the Award under Section 11 of the Land Acquisition Act, 1894 has been made five years or more prior to the commencement of the 2013 Act i.e. 01.01.2014. In the instant case, though the notification under Section 4(1) of the 1894 Act was issued in 2008, the Award came to be passed on 01.07.2011 which is just two years eight months prior to the 2013 Act coming into force, hence, the provisions under Section 24(2) has no application, is the contention of the learned Government Pleader. Likewise, the learned Government Pleader also pointed out that Section 101 of the 2013 Act also applies with respect to the land acquired under this Act. In those circumstances, as the respondents are ready to pay the compensation, the petitioners may approach the authorities and receive the compensation, contends the learned Government Pleader.

For the purpose of better appreciation of the respective submissions, Sections 24(2) and 101 of the 2013 Act are extracted hereunder:

“ 24(2): Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases:

- (1)
- (2) Notwithstanding anything contained in sub-section (1) in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an

award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act.

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries then, all beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act shall be entitled to compensation in accordance with the provisions of this Act.

101: Return of unutilized land: When any land, acquired under this Act remains unutilized for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government”.

A plain reading of Section 24(2) leaves no manner of doubt that its application would arise only in cases where an Award is made five years prior to coming into force of the Act, which, as rightly contended by the learned Government Pleader, if the Award is passed prior to 01.01.2009. In the present case on hand, since the Award has been made on 01.07.2011, it can safely be said that Section 24(2) has no application. Likewise, Section 101 also has no application to the case on hand. In those circumstances, so far as the claim of the petitioners for re-conveyance of the land is concerned, it has no merit and the action of the authorities in refusing to accede to the request of the petitioners cannot be found fault. However, it is to be noted here that the 3rd respondent authorities, in the impugned proceedings, had categorically stated that “ It is informed the pattadar can take his compensation

amount from the Land Acquisition Officer & Revenue Divisional Officer, Ananthapuramu by producing sufficient documentary evidences of his land. Further it is informed that the Tahsildar, Uravakonda has taken steps for distribution of house site pattas to the eligible houseless poor people in the above acquired land, as the sufficient number of eligible beneficiaries of house sites are available”,

In view of the above and since the respondent authorities are ready to pay the compensation amount, within four weeks from the date of receipt of a copy of this order, they shall ensure payment of compensation to the petitioners. At this stage, there is no question of the petitioners' producing any documentary evidence with respect to their claim over the subject land. However, if there are any *inter se* disputes, it is made clear that the respondents shall pass orders, in accordance with law, in writing, and communicate the same to the respective parties so as to enable them avail the appropriate remedies.

The Writ Petition is accordingly, disposed of. No costs.

Consequently, the miscellaneous Applications, if any shall also stand closed.

CHALLA KODANDA RAM, J

19th January 2018

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