

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.20837 of 2015

ORDER :

Heard the counsel for petitioner, and the learned Government Pleader for Land Acquisition for respondents.

2. The petitioner has filed the Writ Petition assailing the Award Proceedings No.1/2014-15 dt.15.04.2015 passed by the 3rd respondent, in respect of petitioner's property.

3. The subject properties were purchased by petitioner under two certificates of sale deed dt.22.11.2010 conducted under the Andhra Pradesh Co-operative Societies Act, 1964 by the Kadapa District Co-operative Central Bank Limited.

4. Treating the land as assigned land, by order dt.12.07.2007 in Ref.No.B/8/2007 the 4th respondent initiated process under the Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act, 1977, and directed resumption of the same for the excavation of S.P.V.B.R. Canal and for conservation of Kalivikodi endangered species.

5. The petitioner questioned the same by filing an appeal vide Ref.No.H/276/2008 before the 3rd respondent.

6. The 3rd respondent dismissed the said appeal directing the petitioner to approach the appropriate Forum since there was a claim by the legal representatives of an ex-serviceman.

7. When there was an attempt to dispossess the petitioner from the subject land, the petitioner filed W.P.No.14143 of 2008, and sought a direction to respondents to initiate proceedings under the Land Acquisition Act, 1894 before taking up possession of his land.

8. The said Writ Petition was allowed on 18.03.2009, setting aside the resumption order passed by 4th respondent, which was confirmed by 3rd respondent, and the respondents were directed to take steps under the Land Acquisition Act, 1894 if they intended to acquire the petitioner's land for any public purpose and pay compensation under the provisions of the said Act.

9. Instead of complying with the said directions, certain amounts were sent by Demand Draft to petitioner.

10. The petitioner then sent representations on 02.07.2009, 03.09.2009, 08.10.2009 and 15.02.2010, demanding payment of market value compensation for his land with statutory benefits.

11. Thereafter, nothing was done.

12. The petitioner again filed WP.No.7064 of 2010 with a prayer to direct the respondents to initiate proceedings under the Act to acquire his land. In the said Writ Petition, an interim direction was granted therein on 02.09.2010 in WPMP.No.9108 of 2010 directing the 3rd respondent to consider petitioner's representation dt.15.02.2010, and to pass orders thereon.

13. When this was not complied with, the petitioner filed C.C.No.1111 of 2011.

14. In the said Contempt Case, the 3rd respondent filed a counter stating that he had sought permission from the 2nd respondent to initiate land acquisition proceedings in respect of petitioner's land on 18.07.2012 and 31.07.2012, and the 2nd respondent had granted such permission. It was also stated that draft notification under Section 4(1) of the Act was issued on 22.08.2012 and draft declaration was issued on 26.08.2012.

15. Basing on these representations, the Contempt Case was closed on 07.09.2012.

16. When the petitioner did not get any further information from the respondents, the petitioner was constrained to file WP.No.31000 of 2014 before this Court, and on 14.11.2014 in WPMP.No.38754 of 2014, this Court noticed that the instructions of the learned Government Pleader for Land Acquisition were vague and they did not disclose when the process for notification would be taken up. It therefore directed the respondents to take immediate steps to issue notification under Section 4(1), preferably within three weeks from the date of receipt of copy of the order.

17. However, it appears from the counter of 3rd respondent in the present Writ Petition, that the draft notification under Section 4(1) of the Act was issued on 22.08.2012 and it was published in *Andhra*

Jyothi and *Indian Express* on 31.08.2012 and 01.09.2012 and locally on 05.09.2012. Likewise, declaration under Section 6 was issued on 26.08.2012 and was published in Andhra Jyothi and Indian Express newspapers on 03.09.2012 and locally on 05.09.2012.

18. An award No.1/2014-15 was passed on 15.04.2015 by the 3rd respondent determining the compensation payable at Rs.70,300/- per acre, and crediting a sum of Rs.8,39,685/- to the petitioner's savings bank account on 10.06.2015.

19. Assailing the Award, the petitioner filed the present Writ Petition.

20. A perusal of this Award indicates that the 3rd respondent did not consider any sale transactions in respect of land in the neighborhood of petitioner's land closer to the date of notification, and thus violated one of the basic fundamental principles of determination of compensation under the Act.

21. In the counter-affidavit, it is stated that the 3rd respondent had taken into account certain proceedings of the District Collector as Chairman of the District Level Negotiations Committee issued on 20.01.2011 fixing compensation at Rs.70,300/- per acre. How the said proceedings could be taken as evidence of market value of the subject land as between a willing buyer and seller is not explained.

22. Also the petitioner would be clearly entitled to interest on the amount of compensation which was admittedly not paid. Therefore,

the impugned award passed by 3rd respondent cannot be said to be in conformity with the principles for determination of compensation under the Act, and is clearly an attempt by the respondents to play fraud on the Court by projecting as if they have passed an Award in compliance with the provisions of the Act when they have blatantly violated the Act in every respect.

23. Accordingly, the Writ Petition is allowed. The impugned Award is set aside. The 3rd respondent is directed to strictly adhere to the provisions of the Land Acquisition Act, 1894 and the principles decided by the Apex Court in relation to determination of compensation under the said Act and pass a fresh Award in accordance with law within a period of eight (08) weeks from the date of receipt of copy of the order.

24. The 3rd respondent shall also pay costs of Rs.10,000/- to the petitioner.

25. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 02.07.2018

Ndr/*