

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.24875 of 2007

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners seeking verbatim the following relief:

“For the reasons stated in the above accompanying affidavit, the petitioners herein pray that this Hon’ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in omitting the house properties of the petitioners in the notification issued in the proceedings of the 2nd respondent in G.N.S.S./D/334/2007, dated 11.5.2007 published in Vaartha Telugu Daily dated 12.5.2007 and the declaration issued in the proceedings of the 2nd respondent in G.N.S.S./D/334/2006, dated 22.10.2007 published in Vaartha Telugu Daily dated 26.10.2007 as illegal, arbitrary, unjust, discriminatory and violative of Articles 14 and 300-A of the Constitution of India and consequently direct the respondents to include the house properties of the petitioners namely GISR structure admeasuring 129 sq.mts. in Sy.No.7/2A of the 1st petitioner, GISR structure admeasuring 200 sq.mts. in Sy.No.5/1 of the 4th petitioner, GISR structure admeasuring 190 sq.mts. in Sy.No.5/1 of the 5th petitioner, Medras Terrace Roof admeasuring 140 sq.mts. in Sy.No.7/2A of the 6th petitioner, GISR structure admeasuring 180 sq.mts. in Sy.No.5/1 of the 7th petitioner, GISR structure admeasuring 180 sq.mts. in Sy.No.5/1 of the 8th petitioner and GISR structure admeasuring 190 sq.mts. in Sy.No.7/2A of the 9th petitioner, situated in Rekulakunta village in Gopavaram Mandal, Kadapa District, and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

2. I have heard the submissions of Sri *P.Sridhar Reddy*, learned counsel appearing for the petitioners; of the learned Government Pleader for Irrigation and Command Area Development (A.P.), appearing for the respondents 1 & 2; and of the learned

Government Pleader for Land Acquisition (A.P.), appearing for the respondents 3 to 5. I have perused the material record.

3. Having regard to the pleadings and submissions made in line with the pleadings, this Court is of the considered view that this writ petition can be disposed of by a short order without going into the merits of the contentions of either of the sides.

4. It is to be noted that the only grievance of the petitioners is that in the lands of the petitioners, which are acquired for Somasila Project, there are certain structures and that while determining the compensation, the compensation payable for the value of the structures is not determined and that, therefore, they also made a request for a reference under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act') to the civil Court for appropriate determination of the compensation payable to the structures as well, in the lands of the petitioners, which are acquired and that the said request is not considered and that for the said and other reasons, they approached this Court by filing the writ petition.

5. However, the case of the respondents is that there are no structures, as being stated by the petitioners; that some structures are only there; but, they are not constructed by the petitioners herein; that the same were constructed by some villagers; that some more structures, which were in existence are only made by the petitioners and others, who are similarly placed as the petitioners, for the purposes of claiming compensation; that a detailed enquiry as regards the compensation claimed for structures was duly conducted by the Land Acquisition Officer;

that the Land Acquisition Officer, after considering all the aspects of the matter, rejected the claim for compensation for structures in the lands in Survey nos.5/1 & 7/2A and the other survey numbers for various reasons; and that the said reasons are also mentioned in the counter affidavit filed on behalf of the Government in this writ petition. It is also stated that after the approval of the draft award by the Special Collector, Galeru Nagari Sujala Sravanthi (G.N.S.S.), Kadapa, 2nd respondent herein, the Land Acquisition Officer, 3rd respondent herein, passed an award no.5/2009-2010, on 20.10.2009, rejecting the claims for compensation for structures and awarding the compensation, which is duly payable for the properties of the petitioners, which are acquired; and hence, the writ petition is liable to be dismissed.

6. A perusal of the counter also shows that it is being contended by the respondents that the petitioners have got an effective alternative remedy of seeking a reference under Section 18 of the Act and, therefore, the writ petition is maintainable.

7. In view of the facts and contentions, which are adverted to supra, this Court is of the considered view that this writ petition can be disposed of directing the respondents to make a reference of the matter under Section 18 of the Act to the civil Court for due and appropriate consideration of the claims of the petitioners as regards compensation payable, if any, towards the structures, if any, in the subject lands of the petitioners, which are admittedly acquired.

8. Accordingly, the Writ Petition is disposed of directing the respondents to make a reference under Section 18 of the Act to the

civil Court for due and appropriate consideration and determination, in accord with the procedure established by law, of the claims of the petitioners as regards the compensation payable, if any, towards the structures, if any, that were there at the relevant time in the subject lands of the petitioners, which are admittedly acquired. It is made clear that the needful in the above regard shall be done by the respondent/s concerned within eight (08) weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 16th August, 2018

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