

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.2394 of 2018

ORDER :

Heard the counsel for petitioner, and the learned Government Pleader for Land Acquisition for 2nd respondent, and Sri G. Narasimha Rao, counsel for 3rd respondent.

2. Land admeasuring 202 Sq.Mts. in R.S.No.668/9A2 was acquired by the National Highway Authority of India for the purpose of widening National Highway No.9 from K.M. 0/0 to K.M. 64/5 Vijayawada-Machilipatnam Section in Nidumolu village of Movva Mandal, under a notification issued under Section 3A(1) of the National Highways Act, 1956 (for short, 'the Act').

3. Both petitioner and 3rd respondent made their respective claims to compensation.

4. Thereafter, an Award was passed being Award No.9/2012, dt.14.06.2013, by the 2nd respondent stating that the amount of compensation of Rs.15,18,326/-, determined under the said Award would be deposited in the Court of the Principal Senior Civil Judge, Machilipatnam under Section 3H(4) of the Act.

5. However, no such deposit was made for reasons best known to the 2nd respondent.

6. In the meantime, the 3rd respondent filed WP.No.13879 of 2014, seeking payment of compensation to him and contended that he

had made a representation on 24.02.2014, but no orders were passed by the 2nd respondent in regard thereto.

7. The said Writ Petition was disposed of on 29.04.2014, directing that till the 3rd respondent's representation is considered, the amount of Rs.15,18,326/-, which was payable on account of acquisition of the subject land, shall not be deposited in the Civil Court if it had not been deposited by then, till the representation of 3rd respondent is disposed of.

8. Thereafter, an order in Rc.A.1300.2007, dt.04.07.2014, was passed by the 2nd respondent rejecting petitioner's request for payment of monies, and it was directed to deposit the entire amount in the Court as ordered in the Award dt.14.06.2013.

9. This was questioned by the 3rd respondent in WP.No.20877 of 2014, but the same was withdrawn on 10.07.2017.

10. It is, thereafter, that the said amount appears to have been paid to the 3rd respondent on 18.10.2017, allegedly on the basis of legal advice given by the Gram Panchayats.

11. It is shocking that after taking a view while passing of the Award dt.14.06.2013 that the amount of compensation for the subject land would be deposited in the Civil Court, the 2nd respondent made a *volte face* and made the payment of the same on 18.10.2017 to the 3rd respondent ignoring his own order dt.04.07.2014 to deposit in Court.

12. It is not disputed by either the counsel for 3rd respondent or the Government Pleader for Land Acquisition that the Land Acquisition Officer has no power to review his own order and change his mind as to entitlement of a party to receive compensation after once having decided that there is a dispute about title and the matter requires to be referred to the Civil Court. The only inference from this conduct of the 2nd respondent is that the 3rd respondent successfully managed him and got the payment made to himself.

13. Accordingly, the Writ Petition is allowed. The 2nd respondent and the District Collector, Krishna are directed to recover the said amount of Rs.15,18,326/-, paid by 2nd respondent to 3rd respondent, within four (04) weeks from the date of receipt of copy of this order, if necessary, by initiating proceedings under the Andhra Pradesh Revenue Recovery Act, 1864 against the 3rd respondent. Necessary disciplinary action shall also be initiated by the District Collector, Krishna against the Officer who worked as Revenue Divisional Officer as on 18.10.2017, and who affected payment of the above sum to 3rd respondent.

14. The respondent nos.2 and 3 shall each pay costs of Rs.10,000/- to the petitioner within four (04) weeks from today.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 13.08.2018

Ndr/*