

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.25885 OF 2007

ORDER:

This writ petition is filed to issue a Writ of Mandamus directing the respondents to pay compensation to the petitioner in respect of structures existing in Survey Nos.2B, 83 & 104 of Sripalli Village, Alampur Mandal on par with others and consequently declare the action of the respondents in deleting the structures from the Award Nos.2/80, dated 22.02.1980; Award No.20/79, dated 01.03.1979 and Award No.18/77, dated 18.04.1977 on the file of the second respondent and further inaction of the respondents in not considering the representation of the petitioner dated 27.08.2003 for payment of compensation, as illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India.

2. The case of the petitioner is that the respondents acquired vast extents of land admeasuring Ac.273.07 gts. for submergence consequent to the construction of Srisailem Hydro Electric Project across river Krishna. Ac.12.05 gts. under Award No.2/80, dated 22.02.1980; Ac.4.02 gts. along with land and house of the petitioner under Award No.20/79, dated 01.03.1979 and Ac.2.10 gts. of the petitioner along with other lands under Award No.18/77, dated 18.04.1977, were acquired. The respondents paid the compensation under the provisions of the Land Acquisition Act, 1894 (for short 'the

Act') without paying any compensation in respect of existing structures. He made a representation on 17.12.1982 to the second respondent claiming compensation of Rs.8.00 lakhs in respect of the existing structures situated over his acquired lands i.e. Kallamdoddi (thrashing floors admeasuring more than 4000 to 5000 Sq. yards at an height of 6 feet X 3 feet foundation with a width of 2 feet), Water tubs (Neella thottulu) constructed with stones, trees and wells as no compensation was awarded for the structures. He also made a representation on 02.09.2003 to the second respondent to consider it in the light of G.O.Ms.No.234, I & CAD Department, dated 13.10.1993. The Executive Engineer, Panchayat Raj Division, Gadwal through Letter No.DB/PRD/GDL/2004, dated 01.06.2004 informed the 5th respondent that the Panchayat Raj Department has not constructed any pick up weir in Survey No.83 of Seripalli Village, Alampur Mandal. The 5th respondent through his letter dated 30.11.2004 in pursuance of the third respondent's letter dated 02.09.2003 and by making a spot inspection on 12.09.2003, informed to the 4th respondent that he has found water tubs (Neela thottulu) and wells existing in Survey No.2B and also found one pick up weir in Survey No.83 constructed by the petitioner. It is also found that one well was existing in Survey No.104 and no compensation was paid to them. As per the terms of settlement under G.O.Ms.No.234, (I & CAD) department, dated 15.10.1993

regarding payment of compensation through Lok Adalat and Kallamdoddulu (thrashing floors) shall be treated on par with house sites for valuation purpose by taking average value of the house sites in the village into consideration. The 5th respondent, after making spot inspection and having found the existence of Kallamdoddulu and Neella thottulu in his acquired lands, estimates were prepared as per G.O.Ms.No.291 at Rs.2,08,532/- as against the claim of Rs.8.00 lakhs made by the petitioner.

It is further contended that the 5th respondent requested the 2nd respondent through letter dated 19.02.2005 by furnishing the particulars of existing structures in Survey Nos.2B, 83 and 104, to confirm whether the payment was made or not. The 2nd respondent through his letter No.B3/402/2003, dated 05.10.2005, clearly informed that the Land Acquisition Officer has not paid the compensation amount to the petitioner for the structures existing in Survey No.2B, 83 and 104 of Seripalli Village, Alampur Mandal. The 5th respondent through his Letter No.EE/PW.DIVN/KNL/DB/JTO.6/ARLA/VOL.B/346, dated 17.10.2005, requested the 2nd respondent for payment of compensation. In spite of the same, no payments were made to the structures at any point of time.

3. The respondents filed counter stating that the Special Deputy Collector, S.S.P., Wanaparthy had acquired the lands

for submergence consequent upon the construction of Srisaillam Hydro Electric Project across the river Krishna along with other lands belonging to various villages. The Special Deputy Collector, S.S.P., Wanaparthi was also acquired lands in Seripalli Village vide Award No.2/80, dated 22.02.1980; Award No.20/79, dated 01.03.1979 and Award No.18/77, dated 18.04.1977 for the purpose of construction of Srisaillam Hydro Electric Project. The entire process of acquiring the lands, passing of award and taking of possession of land under acquisition is completed in the year 1980 itself and the water is stored in the reservoir by 1982 i.e., total land acquired is under submergence by 1982. Hence, it is not possible to estimate the said structures in the year 2003 and it is difficult to find out the veracity of the claim of the petitioner at this length of time.

4. Sri L.Prabhakar Reddy, learned counsel for the petitioner, would contend that as the petitioner's lands were acquired and no compensation was paid to the structures thereon, the petitioner made a representation and the same is not considered. However, The 5th respondent, after making spot inspection and having found the existence of Kallamdoddulu and Neella thottulu in his acquired lands, estimates were prepared as per G.O.Ms.No.291 at Rs.2,08,532/- as against the claim of Rs.8.00 lakhs made by the petitioner. It is further contended that the 5th respondent requested the 2nd respondent through letter dated 19.02.2005

by furnishing the particulars of existing structures in Survey Nos.2B, 83 and 104, to confirm whether the payment was made or not. The 2nd respondent through his letter No.B3/402/2003, dated 05.10.2005, clearly informed that the Land Acquisition Officer has not paid the compensation amount to the petitioner for the structures existing in Survey No.2B, 83 and 104 of Seripalli Village, Alampur Mandal. The 5th respondent through his Letter No.EE/PW.DIVN/KNL/DB/JTO.6/ARLA/VOL.B/346, dated 17.10.2005, requested the 2nd respondent for payment of compensation. In spite of the same, no payments were made to the structures at any point of time.

5. The learned Government Pleader for Land Acquisition (Telangana) submitted that the entire process of acquiring the lands, passing of award and taking of possession was completed in the year 1980 and the petitioner has not availed the remedies which are available to him under the provisions of the Act and his representation for payment of compensation at this length of time could not be considered. The writ petition is liable to be dismissed on the ground of delay and latches.

6. The learned Government Pleader further contended that in the case of ***Swaika Properties (P) Ltd. and another Vs. State of Rajasthan and others***¹, the Hon'ble Apex Court held that if the writ petition is filed after taking over the

¹ (2008) 4 S.C.C. 695

possession and the award having become final, the same deserves to be dismissed and that the Courts shall not exercise its power under Article 226 to quash the award.

7. In the facts and circumstances of the case and in the considered view of this Court that the land acquisition proceedings had completed in the year 1980 itself and possession was also taken in the year 1982. The petitioner had not availed the remedies available under the provisions of the Act, for redressal of his grievance of non-payment of compensation for the structures in his land acquired. The whole exercise made by the 5th respondent and requesting the 2nd respondent for payment of compensation is not in accordance with the provisions of the Act. The same is not binding on the 2nd respondent and considering the ratio laid down in the aforesaid judgment of the Hon'ble Apex Court (1 supra), I am of the opinion that there is a considerable force in the arguments advanced by the learned Government Pleader and thereby the writ petition is liable to be dismissed.

8. Accordingly, the Writ Petition is dismissed. No order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand dismissed.

JUSTICE M.GANGA RAO

27-04-2018
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