

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.18478 OF 2007

ORDER:

This Writ Petition is filed to issue a Writ of Mandamus declaring the action of the first and second respondents in not referring the petitioner's claim in respect of the land to an extent of Ac.0.27 guntas in survey No.1157 of Aswaraopalli (V), Raghunathpally (M) of Warangal District, in addition to the lands already referred under Section 31 of the Land Acquisition Act, 1894 (for short 'the Act') to the extent of Ac.0.02 guntas in survey No.1158, Ac.0.02 guntas in survey No.1158, Ac.0.30 guntas in survey No.1158, Ac.0.02 guntas in survey No.1158, Ac.0.20 guntas in survey No.1164, Ac.0.15 guntas in survey No.1251, Ac.0.17 guntas in survey No.1252, Ac.0.20 guntas in survey No.1165 acquired for the purpose of Pangidi Cheruvu reservoir under Godavari Lift Irrigation program in Quilashapur and Ashwaraopally limits, Raghunathpally (M), Warangal District, as illegal and arbitrary.

2. The second respondent proposed to acquire the land to an extent of Acs.848-38 ½ guntas situated at Khilashapur and Aswaraopally Villages of Raghunathpally Mandal, Warangal District, for the purpose of expansion of Pangidi Cheruvu Bund and for its submergence. The second respondent published notification under Section 4 (1) of the Act on 25.05.2006 and declaration under Section 6 of the Act on 26.05.2006. In view of the urgency in expansion of Pangidi Cheruvu reservoir, enquiry under Section 5A of the Act was dispensed with duly invoking urgency clause under Section 17 of the Act. After due process of

law, award No.29/2006-07 dated 16.12.2006 was passed by the Special Deputy Collector for the patta land to an extent of Acs.832.24 ½ guntas. It appears that the petitioner made representations to the first and second respondents, more particularly to the second respondent on 30.12.2006, stating that the lands shown against respondents 3 to 11 are owned and possessed by the petitioner; respondents 3 to 11 are not having any title and they are not in possession of the said lands, for which, the second respondent paid compensation to respondents 3 to 11 in respect of the lands in survey Nos.1158, 1164, 1165, 1251 and 1252 while referring the dispute with regard to payment of compensation in respect of the land situated in survey Nos.1157, 1163, 1164, 1165, 1166 and 1285 to the Civil Court under Section 30 of the Act, to pay the compensation to the owners who establish their title before the Civil Court. In respect of the land to an extent of Ac.0.27 guntas in survey No.1157 of Ashwaraopally (V), the 3rd respondent established his title over the said land and compensation was paid to the 3rd respondent. Since there is no genuine dispute in respect of the said land, the matter was not referred to the Civil Court. Aggrieved by the same, present writ petition is filed.

3. Heard both sides and perused the material on record.

4. Sri D.V.Chalapathi Rao, learned counsel for the petitioner would contend that the second respondent had illegally declined to refer the dispute in respect of the land to an extent of Ac.0.27 guntas in survey No.1157 of Ashwaraopally (V) to the Civil Court under Section 31 (2) of the Act, *in spite* of the petitioner raising

dispute, along with the disputes in respect of lands in survey Nos.1158, 1164, 1165, 1251 and 1252. The second respondent illegally notified the names of respondents 3 to 11 even though said lands were in possession and enjoyment of the petitioner, being the owner of the said lands. Hence, the action of respondents 1 and 2 in not referring the dispute in respect of the land to an extent of Ac.0.27 guntas in survey No.1157 is illegal and arbitrary.

5. Per contra, the learned AGP would contend that a vast extent of land of Acs.848-38 ½ guntas situated at Khilashpur (V), Ashwaraopally (M) of Warangal District, was acquired for the purpose of expansion of Pangidi Cheruvu reservoir under Godavari Lift Irrigation program. Notifications under Section 4 (1) and 6 of the Act were issued. In view of the urgency, enquiry under Section 5A of the Act was dispensed with invoking urgency clause under Section 17 (4) of the Act, award was passed on 16.12.2006, compensation was paid to the land owners whose names were shown in the revenue records and who established title over the said lands. The petitioner, having sold the lands to respondents 3 to 11, cannot claim right or title over the said lands. When the petitioner failed to establish his title over the land to an extent of Ac.0.27 guntas in survey No.1157, compensation was paid to the 3rd respondent as he had established his title over the said land. Since there is no genuine dispute over the said land, the matter has not been referred to the Civil Court, as urged by the petitioner. The dispute in respect of other lands i.e. land to an extent of Acs.1.11 guntas in survey No.1157, Ac.0.01 guntas in survey No.1163, Ac.0.06 guntas in survey No.1164, Acs.1-14 ½ guntas

ins survey No.1165, Ac.1-08 guntas in survey No.1166 and Acs.2.02 guntas in survey No.1285 was referred to Civil Court under Sections 30 and 31 (2) of the Act as third parties raised dispute with regard to title over the said lands, but in respect of the lands in survey Nos.1158, 1164, 1251, 1252 and 1165, the matter was not referred to Civil Court as the names of respondents 3 to 11 were shown in the revenue records as owners of the lands, they were paid compensation as the petitioner has sold away the said lands to respondents 3 to 11. When there is no genuine dispute raised by the petitioner, his claim was not referred to the Civil Court. Thereafter, award was passed and compensation was also paid to the owners whose names were show in the revenue records and also who proved their title. As the petitioner has not proved his title, the matter was not referred to the Civil Court.

6. In the facts and circumstances of the case, this Court found that the disputes in respect of the lands situated in survey Nos.1157, 1163, 1164, 1165, 1166 and 1285 were referred to Civil Court under Sections 30 and 31 (2) of the Act as the third parties raised disputes with regard to title and payment of compensation. In respect of the lands situated in survey Nos.1158, 1164, 1165, 1251 and 1252, the compensation was paid to respondents 3 to 11 as their names were shown in the revenue records as land owners and their names were notified in the land acquisition notifications. Further, respondents 3 to 11 have proved their title to the land and as such they were paid compensation. It is specifically pleaded in the counter that as the petitioner failed to prove his title to the land in survey No.1157 to the extent of Ac.0.27 guntas and as the

third respondent proved his title in respect of the said land, he was paid compensation and the matter was not referred to Civil Court as the dispute raised by the petitioner is not genuine.

7. As per Section 30 of the Act, the discretion is vested in the Collector to refer the matter to the Civil Court based on the genuine dispute raised by the parties in respect of the acquired land. As per Section 31 (2) of the Act, if there is no person to whom the compensation has to be paid, if there is any dispute to the title and to receive compensation and no person competent to alienate the land or as to the apportionment of the compensation, the Collector shall deposit the amount of compensation in the Court to which a reference under Section 18 would be submitted.

8. Now, in the present case, the award has been made and compensation was paid to the land owners. Even in respect of the land to an extent of Ac.0.27 guntas situated in survey No.1157 of Ashwaraopally (V), no amount is available with the Collector to refer the dispute to the Civil Court as the amount was paid to the 3rd respondent on his proving title over the said land. Hence, there is no illegality or irregularity on the part of respondents 1 and 2 in not referring the dispute in respect of the land to an extent of Ac.0.27 guntas in survey No.1157 of Ashwaraopally (V), Raghunathpally (M) of Warangal District, to Civil Court. However, the petitioner is entitled to recover the compensation amount from the person, who has received the same illegally without any right, by filing a properly constituted civil suit before the competent civil Court for recovery of the said amount duly proving his title over the said land.

9. With above observation, the Writ Petition is dismissed.

10. Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

(M.GANGA RAO, J)

8th March, 2018
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