

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 3989 of 2018

O R D E R:

Petitioners claim that they are the owners of agricultural land admeasuring Ac.0.78 cents, Ac.0.36 cents, Ac.0.67 cents and Ac.0.50 cents in Survey Nos.5/1A1, 5/1B1, 6/1 and 32/1A respectively situated at Gudipadu Khandriga, Chintalapudi Mandal, West Godavari District. They state that they are the small farmers and depending only on the agriculture. In connection with Chintalapudi Lift Irrigation Scheme, the land of the petitioners was sought to be acquired by issuing proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013 (for short 'the Act') and thereafter Award No.2 of 2016 also came to be passed on 14.03.2016 by respondent No.3-Special Deputy Collector (Land Acquisition), Polavaram Irrigation Project, Right Canal, Unit-II, Eluru, West Godavari District awarding a sum of Rs.5,00,000/- per acre as against the claim of the petitioners at Rs.40,00,000/- per acre. In the process of making assessment of the fair market value, respondent No.3 had determined the value per acre improperly and failed to comply with the provisions under Sections 26 to 30 of the Act. After bifurcation of the composite State, land values have been escalated and the petitioners' land is situated within 100 k.ms. of the proposed capital city of the State of Andhra Pradesh. Further, there is a proposal to lay an outer ring road and if it is made, the value will further grow up. They further state that respondent No.3 also failed to adopt

multiplier '2' as per Schedule-I and adopted '1', thereby, the petitioners have been deprived of the fair and adequate compensation. Hence, this writ petition.

Learned counsel for the petitioners submits that this Court, in similar circumstances, granted interim stay of dispossession in W.P.Nos.7673 and W.P.No.18811 of 2016 *vide* orders, dated 10.03.2016 and 17.06.2016 respectively, and hence prays that similar orders may be passed even in this Writ Petition.

Learned Government Pleader for Land Acquisition (Andhra Pradesh) does not dispute passing of similar orders and submits that the Awards passed in the matters which are pending before this Court are different from the one which is subject matter in the instant writ petition.

Having considered the respective submissions and after taking into consideration the grievance of the petitioners, essentially, the petitioners have no objection with respect to the acquisition of land *per se*. The contention of the petitioners is that in view of potentiality and the value of the land, respondent No.3 ought to have applied multiplier '2' instead of '1'. In a given case, respondent No.3 had determined the fair market value at a lesser price than the one prevailing in the locality. Such contingency is taken care of by the statute by giving an opportunity to the land owners to seek higher compensation. The procedure for seeking a reference is provided under Section 64 of the Act to the competent authority, who determines the compensation in terms

of Section 73 of the Act by following the well-settled principles. Thereafter, if the land owner is not satisfied with the compensation determined by the competent authority, he may approach this Court by way of an appeal.

Though in similar writ petitions, stay was granted, this is not a case where the writ petition requires to be admitted as the same would delay the process of determining higher compensation by the competent authority and it would also deprive the very right of the land owners to approach the authority within the stipulated time as mandated under the Act.

In those circumstances, the writ petition is closed, giving liberty to the petitioners to make an application to respondent No.2-District Collector, West Godavari District, who, in turn, shall entertain the same without raising objection as to the time and take necessary steps in accordance with law.

As it is contended by the learned counsel for the petitioners that as on date, there is a standing crop, the petitioner shall be allowed to harvest the same. It is made clear that the petitioners shall not have the benefit of raising any crop for the next agricultural season.

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

CHALLA KODANDA RAM, J

Dt:09.02.2018
kdl

