

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.5613 of 2018

ORDER:

This is a case where the petitioners seek a Writ of Mandamus complaining that for the property, which has been acquired for the benefit of the 2nd respondent-National Highway Authority, compensation has not been paid to them.

2) Petitioners claim that the 1st petitioner's family viz., himself, his brother and other family members are owners of the property situated in Sy.No.404/2A over an extent of 707 Sq.mtrs., of Poranki Village, Penamaluru Mandal, Krishna District. It is the case of the 1st petitioner that as he did not notice the Award enquiry, he could not participate in the said enquiry. However, the Award has been made and the amount has already been determined and, as a matter of fact, the Tahasildar *vide* letter dated 18.09.2017 addressed to the Revenue Divisional Officer, certified that the title over the subject property is in favour of the petitioners. Merely because the petitioners had participated in the agitation, opposing laying of the road, they have been victimized.

3) Learned counsel for the petitioners would submit that in similar circumstances, a Division Bench of this Court in W.A.No.1487 of 2017 directed the compensation amount to be credited to the bank Account of the respective claims under intimation to the claimants therein. If any of the claimants desire to seek enhancement of the compensation, they are at liberty to approach the arbitrator in terms of Section 3G (5) of the National Highways Act, 1956 (in short "the Act"). Learned counsel further

submits that inasmuch as the matter is squarely covered by a Division Bench judgment of this Court, similar orders may be passed.

4) Sri S.S. Varma, learned Standing Counsel for the 2nd and the 3rd respondents as well as Sri K. Lakshman, learned Assistant Solicitor General for the 1st respondent and the learned Government Pleader for Revenue (AP) opposes the prayer as sought by the petitioners and further would contend that as can be seen from the Award dated 31.05.2016, there was no claim made before the Land Acquisition Officer and there being ambiguity with respect to the title of the property, the compensation amount, which was determined as Rs.5,10,41,992/-, was ordered to be deposited in joint account of competent authority and the Land Acquisition-cum-Project Officer, NHAI. They further contend that it is open for the petitioners to approach the Land Acquisition Officer and establish their rightful claim by placing necessary material before the Land Acquisition Officer and seek release of the money, which has been deposited in the joint account.

5) Having regard to the respective submissions, the question which falls for consideration, in the first place, is that “Whether the petitioner would be entitled to the order as made in W.A.No.1487 of 2017, by the Division Bench of this Court?

6) At the outset, this Court may notice that the issue before the Division Bench is not relating to any claim or counter claim with respect to the compensation. The final order that is made by the Division Bench is to the effect that the direction was issued to the Land Acquisition Officer to pay the compensation amounts to the

respective parties and thereafter, gave an opportunity to the petitioners to seek enhancement in accordance with the procedure prescribed. In the present case on hand, a perusal of the Award leaves no manner of doubt that the petitioners, though claiming to be the owners of the property, had failed to appear before the Land Acquisition Officer and substantiate their claim by placing necessary material documents. The Land Acquisition Officer, taking into consideration the fact that the name of one Tatineni Gopayya has been recorded in the Notification, issued under Section 3(D) of the Act, and considering the fact that as per the enjoyment statement, one Tatineni Nagamani's name has been recorded for an extent of 607-05 sq.meters since none has appeared before him, having determined the quantum, directed the amount to be deposited in the joint account of the competent authority, Land Acquisition Officer and Project Director, NHAI, Vijayawada. It cannot be straight away said that the claim of the petitioners have been rejected in any manner as of now. At the same time, there is also no categorical finding recorded in the Award that the petitioners have a claim and right over the compensation amount deposited.

7) In those circumstances, it is for the petitioners to approach the Land Acquisition Officer and place necessary documentary evidence making a claim for the compensation with respect to the 607.05 sq.mtrs., which shall be considered by the Land Acquisition Officer. Inasmuch as, admittedly, as on date, the petitioners have not approached the Land Acquisition Officer, the Writ Petition can be disposed of giving liberty to the petitioners to approach the Land Acquisition Officer / competent authority and make a claim

for compensation by placing necessary material documents before the authority, who shall consider the same and pass appropriate orders in accordance with law. As the Award itself is of the year 2016, as and when the petitioner approaches, the Land Acquisition Officer shall consider the same and pass suitable orders within six weeks from the date of placing material by the petitioners.

8) Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

9) Consequently, Miscellaneous Petitions pending, if any, in this Writ Petition, shall stand closed.

Date: 22.02.2018.

Ssv

CHALLA KODANDA RAM, J.

