

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No.22545 of 2007

ORDER

This writ petition is filed seeking a writ of mandamus declaring the action of respondents in not initiating the proceedings under the Land Acquisition Act and not paying the compensation in respect of the land admeasuring Acs.4.06 gts in Sy.Nos.787/2, 790/2 and 790/4, situated at Kamareddygudem Village, Devaruppula Mandal, Warangal District, to the petitioner and his family members, as illegal and arbitrary.

2. The brief facts, as set out in the writ petition, are that the petitioner, his family members and one Billa Somi Reddy were the owners and possessors of land admeasuring Acs.4.06 gts in Sy.Nos.787/2, 790/2 and 790/4, situated at Kamareddygudem Village, Devaruppula Mandal, Warangal District. On 09.09.1986, the third respondent-Revenue Divisional Officer had taken advance possession of the said land for construction of Mandal Complex at Devaruppula Mandal. However, by proceedings dated 19.07.1991, the then Revenue Divisional Officer, informed the petitioner and others that out of the land to an extent of Acs.4.06 gts, an extent of Ac.2.23 gts, in the same survey numbers, was deleted from the land acquisition proceedings. As the respondents have not paid compensation, Sri Billa Somi Reddy and others filed W.P.No.16125 of 1994 questioning the action of respondents 2 and 3 therein in withdrawing the land acquisition proceedings in respect of their land after taking physical possession, as illegal and unconstitutional and

consequently direct the respondents to complete the land acquisition proceedings and pay compensation to them. The said writ petition came to be allowed on 05.08.2004 holding that the petitioners therein would be entitled for compensation by way of damages for the period from 09.09.1986 to 19.07.1991 for the entire extent of land of Acs.4.06 gts and that the respondents shall initiate Proceedings under the Land Acquisition Act, 1894 (for short 'the Act') in respect of the land to an extent of Ac.1.13 gts and further, liberty was also given to the petitioners therein to make an application within eight weeks, and on filing the same, the respondents were directed to consider and dispose of the same as expeditiously as possible. In spite of the said orders, the respondents have not taken any steps. In those circumstances, the petitioner herein filed the present writ petition seeking a writ of mandamus directing the respondents to initiate proceedings under the Act and pay compensation.

3. The brief averments in the counter affidavit filed by the 4th respondent-Tahsildar are that they have taken over the advance possession of land to an extent of Acs.4.06 gts in Sy.Nos.787/2, 790/2 and 790/4, situated at Kamareddygudem, H/o. Devarupputla Village and Mandal, on 09.09.1986, on account of the consent given by the pattedars for construction of Mandal Complex Building. Thereafter, out of the land to an extent of Acs.4.06 gts, an extent of Ac.2.33 gts of land was returned to the pattadars vide proceedings dated 19.07.1991 of the Revenue Divisional Officer, Warangal. Accordingly, proposals were submitted to the Chief Commissioner of

Land Administration, A.P., Hyderabad, through the Collector, Warangal, on 12.02.1991. Thereafter, the Chief Commissioner of Land Administration, Hyderabad, submitted the said proposals to the Government in Revenue (District Administration) Department. However, they are pending for approval. While so, after receipt of the order dated 05.08.2004 passed by this Court in W.P.No.16125 of 1994, the Collector, Warangal, has requested the Chief Commissioner of Land Administration, A.P., Hyderabad, to get early approval of the proposals from the Government along with the funds vide references dated 30.03.2005, 29.07.2005, 15.10.2005, 29.11.2005, 31.01.2006, 27.04.2006, 08.09.2006, 06.12.2006, 16.06.2007, 29.08.2007, 15.11.2008, 1.04.2009 and 16.11.2010, but they are still pending. It is stated that due to non-approval of the proposals and non-sanction of the budget by the Government, the 4th respondent could not make payment of compensation to the pattedars.

4. Heard learned counsel for the petitioner and learned Government Pleader for the respondents.

5. As can be seen from the above facts, practically, there is no dispute with respect to the specific assertion that the land of petitioner and others in an extent of Ac.1.13 gts in Sy.No.790/4 was taken possession by the respondents in 1986 and the same was utilised for construction of Mandal Complex. From a query put forth by this Court with regard to the status of the proposal made pursuant to the orders of this Court in W.P.No.16125 of 1994 dated 05.08.2004, the learned Government Pleader submits that even till

today, there is no sanction from the Government and the matter is still pending. Further, the damages for the period from 09.09.1986 to 19.07.1991, as directed by this Court in the said writ petition, for the entire extent of land of Ac.4.06 gts, were also not paid. Though the surplus land of an extent of Ac.2.33 gts was returned to the petitioner and other pattedars, as on date, there is no possibility of the respondent Government for approving the draft notification and draft declaration said to have been submitted by the District Collector in 2005 since the said proposals were made keeping in view the provisions of the Act, and for the reason that the Act stands repealed by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).

6. In those circumstances, the Writ Petition deserves to be allowed with the following directions:

- (i) the first respondent shall take necessary steps forthwith and initiate land acquisition proceedings in terms of the Act 30 of 2013 by considering the proposals, which were already made, treating in terms of the Act 30 of 2013, within a period of four weeks from the date of receipt of a copy of this order.
- (ii) As the damages for taking possession of entire land to an extent of Ac.4-06 gts, as directed by this Court in W.P.No.16125 of 1994 dated 05.08.2004, were not paid for the period from 09.09.1986 to 19.07.1991, those damages shall be assessed and paid to the petitioner and others. To

enable the respondents to make an assessment, the petitioner and others shall submit a claim specifying those damages, to the second respondent-District Collector, within four weeks from the date of receipt of a copy of the order. On filing such claim, the District Collector, shall examine the same and pass appropriate orders, after giving an opportunity to the petitioner and others, within 8 weeks thereafter. It is also open to the District Collector to make a negotiable settlement so far as the damages for occupation of the land for the period from 09.09.1986 till the date of the notification that is required to be issued in terms of the Act 30 of 2013.

- (iii) Likewise, damages for the period from 09.09.1986 to 19.07.1991, as directed by this Court, to the extent of Ac.2.33 gts, shall also be asserted and paid to the pattedars, within a period of 8 weeks, along with the assessment of damages to the petitioner and others.
- (iv) On account of reorganisation of States, it is made clear that the Principal Secretary, Revenue Department, State of Telangana and the District Collector, shall take necessary steps.

Subject to the above directions, the Writ Petition is disposed of.

CHALLA KODANDA RAM, J

8th November, 2018

sj