

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN  
AND  
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

**Writ Appeal No.384 of 2018**

**Judgment :** (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri K. Srinivas, learned counsel for the appellants, and the learned Government Pleader for Land Acquisition (AP) and, with their consent, the Writ Appeal is disposed of at the stage of admission.

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No.1357 of 2018 dated 19.1.2018 disposing of the Writ Petition directing the respondents to pay compensation within four weeks from the date of receipt of a copy of the order.

The relief sought for in the Writ Petition was to issue a writ of mandamus to declare the action of the Revenue Divisional Officer, in rejecting the appellants-writ petitioners' request for return of their respective lands by his endorsement dated 4.12.2017, as illegal, arbitrary and unconstitutional. The appellants-writ petitioners placed reliance on Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter called as "the 2013 Act") to contend that, since the notification under Section 4(1) of the 1894 Act was issued on 3.10.2008, the entire acquisition proceedings lapsed on the 2013 Act coming into force; and, consequently, the respondents ought to have re-delivered the subject land to the appellant.

In the order under appeal, the learned Single Judge has observed, in our view rightly so, that Section 24(2) would apply only in cases where an award is made five years prior to the coming into force of the 2013 Act, ie, 1.1.2014; and since, in the present case, an award was made on 1.7.2011, Section 24(2) had no application. The learned Single Judge also referred to the impugned proceedings dated 4.12.2017 that

the pattadar could take his compensation amount from the Land Acquisition Officer by producing sufficient documentary evidence; and that the Tahsildar had taken steps to distribute house site pattas to eligible houseless poor persons in the land under acquisition.

The very fact that the appellants-writ petitioners sought re-delivery of the subject land is proof that possession of these lands has already been taken by the respondents. While the notification under Section 4(1) of the 1894 Act was issued on 3.10.2008, an award was passed on 1.7.2011. Section 24(2) of the 2013 Act would apply only in cases where an award is passed more than five years prior to the coming into force of the 2013 Act and, in as much as the 2013 Act came into force on 1.1.2014, Section 24(2) would apply only to awards made prior to 1.1.2009, and not thereafter. Since the award, in the present case, was passed on 1.7.2011, Section 24(2) of the 2013 Act has no application.

A Division Bench of this Court, in **D. Mahesh Kumar vs. State of Telangana**<sup>1</sup>, held that the proviso, placed below Section 24(2) of the 2013 Act, must be read along with Section 24 in its entirety; while Section 24(2) was an exception to Section 24(1)(b), the proviso below it was yet another exception thereto; if an award was made after 1.1.2009, but prior to 1.1.2014, and, if compensation in respect of a majority of the land holdings was not paid before the commencement of the 2013 Act, then all those land owners specified in the notification, issued under Section 4 of the 1894 Act, shall be entitled for higher compensation in accordance with the provisions of the 2013 Act.

In the light of the law declared by a Division Bench of this Court in **D. Mahesh Kumar**<sup>1</sup>, if compensation, in respect of a majority of the land holdings, has not been deposited into the accounts of the

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<sup>1</sup> 2017(1) ALT 400 DB

beneficiary, with respect to awards made after 1.1.2009 and before 31.12.2013, then such land owners shall be entitled for higher compensation in accordance with the provisions of the 2013 Act.

While we find no error in the order of the learned Single Judge necessitating interference in an intra-Court appeal under Clause 15 of the Letters Patent, suffice it to direct that the respondents herein shall pay the appellants-writ petitioners compensation under the 1894 Act, as directed by the learned Single Judge, within the time stipulated in the order under appeal. The appellants shall submit a representation to the respondents, within two weeks from today, seeking payment of enhanced compensation under the 2013 Act. On such a representation being made by the appellants-writ petitioners, the District Collector, Anantapur shall consider the said representation in accordance with law, and pass a reasoned order thereupon within four weeks from the date of receipt of the said representation. In case, the District Collector holds that the appellants-writ petitioners are entitled for higher compensation under the 2013 Act, the higher compensation shall be paid to the appellants-writ petitioners within eight weeks from the date on which the District Collector passes orders on the appellants-writ petitioners representation.

The Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

**(RAMESH RANGANATHAN, ACJ)**

**(KONGARA VIJAYA LAKSHMI, J)**

12<sup>th</sup> March, 2018

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