

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.15587 OF 2007

ORDER:

This Writ Petition is filed to declare the action of the respondent in rejecting the claim of petitioners under Section 18 of the Land Acquisition Act (for short 'the Act') for referring the same to the Civil Court for enhancement of compensation vide memo No.B2/359/2006 dated 16.03.2006 as illegal and arbitrary and consequently direct the respondent to refer the claim of the petitioner filed under Section 18 of the Act in respect of petitioners' land to an extent of Ac.0.30 guntas in survey No.356 situated at Jangaon Village, Ramagundam (M) of Karimnagar District, to the Civil Court for enhancement of compensation.

2. The case of the petitioners is that land to an extent of Acs.3.17 guntas situated in Jangaon (V) Ramagundam (M) was proposed to be acquired by the sole respondent for the purpose of de-pillaring operations at GDK-1 Incline, on the requisition made by the General Manager, Singareni Collieries Company Limited. Notification under Section 4 (1) of the Act was published on 13.06.1998, declaration under Section 6 of the Act was published on 04.09.1998 in respect of the land to an extent of Ac.0.30 guntas in survey No.356 and Acs.3.27 guntas in survey No.357 of Jangaon (V), Ramagundam (M) of Karimnagar District. Sri Mallepally Pochaiah is the pattedar of the land in survey No.356 and petitioners claim to be legal heirs and shareholders of the property. On the demise of their father Sri M.Pochaiah, the petitioners, who are two in number and legal heirs of said M.Pochaiah, are entitled to receive compensation in equal share

i.e. in respect of Ac.0.15 guntas each. The respondent passed award No.D2/99 dated 02.09.1999 fixing compensation amount of Rs.15,000/- per acre and other statutory benefits. However, the respondent referred the matter to the Civil Court under Section 30 of the Act as there was a dispute between the petitioners and the Revenue Divisional Officer, Peddapalli, with regard to title over the land and the same was numbered as O.P.No.86/1999 on the file of the Senior Civil Judge, Peddapalli. The matter was referred to Lok Adalat and as per compromise, the petitioners were declared as owners of the land in survey No.356 of Jangaon (V) vide Lok Adalat Award dated 07.04.2000. On receipt of the compensation, the petitioners filed application dated 12.06.2000 under Section 18 of the Act to refer the matter to the competent Civil Court for fixing proper compensation. When the respondent declined to refer the matter under Section 18 of the Act to the Civil Court on the ground of delay, the present Writ Petition came to be filed.

3. The respondent filed a counter affidavit stating that on the requisition of the General Manager, O.C.-II and III, SCCL, Godavarikhani, for acquisition of land to an extent of Acs.3.17 guntas in survey Nos.356 and 357 situated in the limits of Jangaon (V), Ramagundam (M) of Karimnagar District, for the purpose of de-pillaring operations at GDK-I Incline. A notification under Section 4 (1) of the Act and declaration under Section 6 of the Act were issued and published on 19.06.1998 and 22.08.1998 respectively. In view of the urgency, enquiry under Section 5A of the Act was dispensed with invoking urgency clause under Section 17 of the Act. In the revenue records, the names of Sri M.Pochaiah and Rayapochamma were shown as pattedars and the names of Sri

M.Laxmaiah and Sri M.Rajaiah, writ petitioners herein, were recorded as enjoyers in respect of the land to an extent of Ac.0.30 guntas in survey No.356. During the award enquiry, Sri M.Laxmaiah S/o.Pochaiah participated and deposed that he along with Sri M.Rajaiah S/o.Pochaiah are the legal heirs and shareholders of the said property @ Ac.0.15 guntas each. The Land Acquisition Officer has passed the award No.2/99 dated 22.09.1999 in respect of the land to an extent of Acs.3.17 guntas by fixing the market value of the land @ Rs.15,000/- per acre and awarded compensation only in respect of land to an extent of Acs.2-27 guntas in survey No.357/C and paid to the awardees. In respect of the land to an extent of Ac.0.30 guntas, the Revenue Divisional Officer had not confirmed the ownership rights over the said land as the land is an Inam land. In view of the dispute between the Revenue Divisional Officer, Peddapalli, and the Inamdars of land to an extent of Ac.0.30 guntas in survey No.356 with regard to title, the matter was referred to Sub-Court, Peddapalli, under Sections 30 and 31 (2) of the Act for adjudication and the same was numbered as O.P.No.86/99 on the file of the Senior Civil Judge, Peddapalli. The matter was referred to Lok Adalat and the Lok Adalat passed an award on 07.04.2000 declaring that as per the compromise, Sri M.Laxmaiah S/o.Pochaiah and Sri M.Rajaiah S/o.Pochaiah are the owners of the land @ Ac.0.15 guntas each in survey No.356 of Jangaon (V) and compensation was paid to them. Thereafter, the petitioners filed petition under Section 18 of the Act to refer their claim to the Civil Court for fixing proper compensation on 12.06.2000 and 16.06.2000 respectively. The respondent rejected the claim of the

petitioner to refer the matter to Civil Court under Section 18 of the Act to Civil Court for enhancement of the compensation as there a delay of seven months from the date of award, the notices under Section 12 (2) of the Act were served on the petitioners on 23.09.1999. Hence, the claim of the petitioners was rejected and the same was informed through their counsel vide Memo No.B2/359/2006 dated 16.03.2006.

4. The petitioners filed rejoinder and reply affidavits denying the service of notice under Section 12 (2) of the Act as stated by the respondent in the counter.

5. However, the respondent filed a reply thereto stating that since because the petitioners were not available on 23.09.1999 in the village, the notice under Section 12 (2) of the Act were served on the mother of the petitioners by name Smt.M.Pochamma by obtaining her thumb impressions. It is to be noted that no rejoinder is filed by the petitioners to the said stand taken by the respondent in the reply.

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

7. In the facts and circumstances of the case and in considered view of this Court, the land in survey No.356 to an extent of Ac.0.30 guntas situated at Jangaon (V), Ramagundam (M), Karimnagar District was acquired for the purpose of de-pillaring operations at GDI-I Incline along with other lands. The Land Acquisition Officer had passed award No.2/99 dated 22.09.1999 and paid compensation only in respect of the land to an extent of Acs.2.27 guntas in survey No.357/C to the awardees.

But, in respect of the land to an extent of Ac.0.30 guntas in survey No.356, the matter was referred to Civil Court i.e. Sub-Court, Peddapalli, and numbered as O.P.No.86/1999 as there is a dispute existing between the Inamdars and enjoyers of the land. Said case was referred to Lok Adalat and the Lok Adalat passed award dated 07.04.2000 declaring that as per compromise, Sri M.Laxmaiah S/o.Pochaiah and Sri M.Rajaiah S/o.Pochaiah are owners of land @ Ac.0.15 guntas each in survey No.356 and compensation was paid to them. Thereafter, it appears that the petitioners filed application under Section 18 of the Act on 12.06.2006 and 16.06.2006 respectively to refer the applications to Civil Court for proper fixation of compensation.

8. As per Section 18 of the Act, the application under Section 18 has to be filed within six weeks from the date of award if the land owners participate in the award enquiry and if the land owners do not participate in the award enquiry and received notices under Section 12 (2) of the Act, within two months from the date of receipt of notice, to refer the matter to the Civil Court. In the instant case, as the application is filed with seven months delay, rejection of the claim of the petitioners vide impugned memo dated 16.03.2000 is legal and valid. The petitioners cannot claim the cause of action on payment of compensation based on Lok Adalat Award dated 07.04.2000 passed in O.P.No.86/1999 on the file of the Senior Civil Judge, Peddapalli.

9. In similar set of facts in ***Laxmanna and another vs. State of A.P. rep. By District Collector, Mahaboobnagar and***

another¹ this Court held that for making an application for reference under Section 18, the Act does not make a distinction between a case where there was no dispute as to persons entitled to receive compensation and where such a dispute was referred to civil Court under Sections 30 and 31 of the Act. In either case, the person who has not accepted the award is bound to make application within the period stipulated in Section 18.

10. Thus, in view of the ratio laid down by this Court in **Laxmanna (referred supra)**, the petitioners herein ought to have made their applications under Section 18 of the Act within a period of two months from the date of receipt of notice under Section 12 (2) of the Act.

11. In view of the above discussion, the writ petition is liable to be dismissed and the same is accordingly dismissed.

12. 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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¹ 2013 (4) ALT 130