

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.7839 OF 2018

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue appropriate writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the 3rd respondent not recognizing petitioner lands in an extent of Ac.1-31 Kuntas in Sy.No.54/A situated in Kivvaka Revenue Village Fields, Kukunoor Mandal, West Godavari District as per succession as arbitrary, illegal and violation of Article 19, 21 & 300-A of the Constitution of India and consequently direct the respondents to pass an award for the lands in an extent of Ac.1-31 Kuntas in Sy.No.54/A situated in Kivvaka Revenue Village Fields, Kukunoor Mandal, West Godavari District.”

2. Heard learned counsel for the petitioner and the learned Government Pleader for Land Acquisition (A.P.).

3. It is submitted by the learned counsel for the petitioner that the respondent authorities passed an award bearing No.3/2016-17, dated 25.02.2017, in respect of the lands standing in the name of the deceased father of the petitioner herein. It is further submitted that in reality, the total extent held by the family of the petitioner is Ac.1.31 gts., but not Ac.0.04 gts.

4. On the other hand, it is submitted by the learned Government Pleader that if there is any dispute with regard to the extent of the property shown in the award, it is open for the petitioner herein to approach the competent authority under the provisions of Section 64 of the Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, “the Act”). A copy of the award bearing No.3/2016-17, dated 25.02.2017, is passed on to the learned counsel for the petitioner today in the Court. Section 64 of the Act reads as under:

“64. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:

Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's award, whichever period shall first expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.”

5. It is very much evident from a reading of the above provision of law that even for an objection as to the measurement of the property, the aggrieved person can make an application under Section 64 of the Act.

6. In view of the above said alternative remedy available to the petitioner herein, this Court deems it appropriate to dispose of the writ petition, keeping it open to the petitioner herein to make an appropriate application before the authority under the provisions of Section 64 of the Act within a period of thirty (30) days from the date of receipt of a copy of this order and if any such application is made, the same be considered and appropriate action be taken strictly in accordance with law.

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

8. Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 22.03.2018
AMD

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI



WRIT PETITION No.7839 OF 2018

Date: 22.03.2018

AMD