

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.15141 OF 2007

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus declaring the Award passed vide No.B/32 /06-IV, dated 2.2.2007 in respect of land in Sy.No.57 to an extent of Ac.18.27 guntas in Vemunuru Village, Ramagundam Mandal, Karimnagar District in favour of respondents 3 to 6, without considering valid documentary evidence and objections filed by the petitioner and without referring the matter to a competent Civil Court under Section 30 of the Land Acquisition Act, 1894 (for short 'the Act'), as arbitrary, illegal, and contrary to the provisions of the Land Acquisition Act and consequently set aside the Award passed vide No.B/32/06-IV, dated 2.2.2007 of the 2nd respondent insofar as the petitioner's land in Sy.No.57 to an extent of Ac.18.27 guntas in Vemunuru Village, Ramagundam Mandal, Karimnagar District.

It is the case of the petitioner that he is the owner and possessor of the land to an extent of Ac.18.27 guntas in Sy.No.57 situated at Vemunur Village, Ramagundam Mandal, Karimnagar District. He succeeded the said property from his father late Venkateswara Rao. His brothers viz., Madan Mohan Rao, Shyamsunder Rao, Janardhan Rao and Ramesh Babu also had equal shares in the said land. It is the further

case of the petitioner that all the revenue records show their possession as pattadars. While so, one V.Jagan Mohan Reddy and K.Reddy Indira illegally got their names entered in the revenue records in the year 1997-98. Thereafter, along with other lands, the land of the petitioner was acquired for submergence under Sripada Sagar Project (Yellampalli). The petitioner never sold the subject land to the said persons at any point of time nor executed any document in favour of any third parties. When the official respondents are trying to pay the compensation to respondents 3 to 6, who are said to be purchased the lands from V.Jagan Mohan Reddy and K.Reddy Indira, he approached this Court by filing W.P.No.22299 of 2006. This Court *vide* order dated 30.10.2006 disposed of the said writ petition and operative portion of the order reads as under:

“Therefore, before passing any award, if not already passed, the 7th respondent may have to consider the claim of the petitioner that he is allegedly “person interested” in the land under acquisition being the owner of the land as alleged by him. In case, award is already passed by the 7th respondent, the petitioner may make representation under Section 30 of the Act seeking reference to the Civil Court. The same may be considered by the Civil Court, if necessary, in accordance with law.”

In pursuance of the orders of this Court, notice was issued to the petitioner to approach the 2nd respondent and accordingly, he appeared before the 2nd respondent and submitted all the relevant documentary evidence including xerox copies of the pahanies from the years 1994-95, 1995-96, 1996-97 and also requested vide letter dated 21.11.2006 to call for the original records from the revenue officials and to look into the entries. It is the further case of the petitioner that the respondents without considering his valid claim, passed Award on 2.2.2007. Alleging non-compliance of the order dated 30.10.2006, he filed C.C.No.405 of 2007 and the same was closed. The 2nd respondent had not considered the documents filed in support of his claim and had not referred the claim to the Civil Court under Section 30 of the Act as directed by this Court *vide* order dated 30.10.2006 in W.P.No.22299 of 2006. Hence, the present writ petition is filed.

The 2nd respondent filed counter-affidavit stating that Draft Notification under Section 4 (1) and Draft Declaration under Section 6 of the Act were submitted to the Special Collector, LA SRSP, SSP & JCRGLIP, Tarnaka, Hyderabad, for acquiring the land to an extent of Ac.100-14 situated at Vemunur Village of Ramagundam Mandal, Karimnagar

District for submergence under Sripada Sagar Project (Yellampally). The Special Collector has approved the said Draft Notification and Draft Declaration on 12.4.2006 and 6.5.2006 respectively. Enquiry under Section 5-A of the Act was dispensed with duly invoking urgency clause under Section 17 (4) of the Act. The notification under Section 4 (1) of the Act and the Declaration under Section 6 of the Act were published on 12.4.2006 and on 9.5.2006 in the District Gazette and two daily newspapers as required under the provisions of the Act. As per the revenue records, the names of Edma Jagan Mohan Reddy and K.Indira were recorded as pattadars and enjoyers and hence, their names were notified in the Notification and Declaration in respect of the land to an extent of Ac.18.27 cents in Sy.No.57 out of Ac.100-14, which was proposed for acquisition. It is further stated that the Land Acquisition Officer has issued Award enquiry notices to the original pattadars and enjoyers viz., Edma Jagan Mohan Reddy and K.Indira, as per the records, fixing the date of enquiry on 19.6.2006. Accordingly, the Award enquiry was conducted on 19.6.2006 and completed on 12.09.2006. During the Award enquiry the land owner Edma Jagan Mohan Reddy has submitted a statement before the Land Acquisition Officer stating that they have sold away the said land of

Ac.18.27 cents in Sy.No.57 to (1) Dugyala Ravinder Rao (2) D.Rajeshwar Rao (3) V.Rudama Devi and (4) V.Rama Rao through registered sale deed Nos.4568/2003 and 4569/03, dated 19.12.2003. The statement was recorded by the Land Acquisition Officer. The said purchasers i.e., respondents 3 to 6 have also attended before the Land Acquisition Officer during Award enquiry and also produced registered sale deeds. At this stage, the petitioner filed W.P.No.22299 of 2006 before this Court and the same was disposed of on 30.10.2006. In pursuance thereof, notice was issued to the petitioner on 16.09.2006. But the petitioner attended before the 2nd respondent on 21.11.2006, but has not produced any documentary evidence in support of his claim over the land and the 2nd respondent has passed order on 21.11.2006 vide proceedings No.B/32/2006-IV, which reads as under:

“A notice dated 16.10.2006 was issued to the writ petitioner, Sri Rapole Balakishan Rao, s/o Venkateshwar Rao and 10 others requiring them to attend before the Special Deputy Collector, FFC-II, LMD Colony, Karimnagar on 21.11.2006 along with the documents in respect of Sy.No.57, otherwise, it will be deemed that you have no documents to produce. The Special Deputy Tahsildar of this office has also been instructed to enquire into the representation of Sri Rapole Balakishan Rao. Accordingly, the Special Deputy Tahsildar has enquired into the matter and submitted a report stating that he has verified the Pahanies and the name of Sri Raple Balakishan Rao has

not been recorded as Pattadar in respect of Sy.No.57 and on local enquiry it is revealed that the purchasers of the said land in Sy.No.57 viz., Velpuri Ramarao and others are cultivating the land.

Sri Rapole Balkishan Rao and others have appeared before the Special Deputy Collector on 21.11.2006, but failed to produce any documentary evidence in proof of their title in respect of Sy.No.57 of Vemunoor Village, Ramagundam Mandal of Karimnagar District. Instead of submitting documentary evidence establishing their title, Rapole Balakishan Rao has submitted certain objection for taking a decision, which cannot be considered as a reply to the Notice dated 16.10.2006 issued by the Special Deputy Collector. As Sri Rapole Balakishan Rao failed to prove their title to the above said land, action is being initiated to pass Award and to pay compensation to the rightful owner.”

Subsequently, the 2nd respondent passed consent Award on 2.2.2007 under Section 11 (2) of the Act, in respect of land admeasuring Ac.27.00 in Sy.No.57 of Vemunur Village. It is further stated that the petitioner has neither right over the land nor question the validity of the Award and that he cannot seek to refer the matter under Section 30 of the Land Acquisition Act to the Civil Court.

Learned counsel appearing for the petitioner would contend that the petitioner is the owner of Ac.18.27 guntas in Sy.No.57 situated at Vemunur Village, Ramgundam Mandal, Karimnagar District; that the said land was inherited from his

father late Venkateswara Rao; that the said land was acquired for the purpose of Sripada Sagar Project (Yellampalli); that the respondents issued notification under Section 4 (1) of the Act without mentioning the patta boundaries; that the declaration was issued under Section 6 of the Act mentioning the names of Jagan Mohan Reddy and K.Reddy Indira in respect of the land in an extent of Ac.18.27 guntas in Sy.No.57 situated at Vemunur Village, Ramgundam Mandal, Karimnagar District; that during award enquiry, the petitioner submitted his objections on 18.7.2006 & 16.9.2006 before the Special Deputy Collector requesting him not to pay the compensation; that in spite of the order passed by this Court in W.P.No.22299 of 2006, dated 30.10.2006, the dispute was not referred to the Civil Court as required under Section 30 of the Act and the Award was passed, which is arbitrary and illegal and vitiated by fraud.

Learned Government Pleader appearing for the respondents submits that the respondents issued notification under Section 4 (1) and declaration under Section 6 of the Act proposing to acquire the lands in an extent of Ac.100.14 guntas for the purpose of Sripada Sagar Project (Yellampalli) including the land of the petitioner admeasuring Ac.18.27 guntas in Sy.No.57 situated at Vemunur Village; that the

names of Jagan Mohan Reddy and K.Reddy Indira were shown in the notification and declaration; that in the award enquiry, the land owner Jagan Mohan Reddy submitted statement before the Land Acquisition Officer stating that he sold away the said land to (1) Dugyala Ravinder Rao (2) D.Rajeshwar Rao (3) V.Rudrama Devi and (4) V.Rama Rao; that the petitioner also submitted representations on 18.6.2006 and on 16.09.2006 before the 2nd respondent seeking payment of compensation; that the 2nd respondent issued notices to the petitioner to appear before the award enquiry on 21.11.2006 at 11.00 A.M along with documents as per the order passed in W.P.No.22299 of 2006 dated 30.10.2006; thereafter, the 2nd respondent has passed an elaborate order on 21.11.2006 and vide proceedings No.B/32/2006-IV giving all the details and the same was communicated to the petitioner stating that the Special Deputy Tahsildar has enquired into the matter and submitted a report that he has verified the pahanies and the name of Raple Balakishan Rao has not been recorded as pattedar in respect of Sy.No.57 and on local enquiry, it was revealed that the purchasers of the said land in Sy.No.57 viz., Velpuri Ramarao and others were cultivating the land; that without any documentary evidence in support of his claim, the

petitioner raised the dispute and failed to show the title to the said land.

In the facts and circumstances of the case, in considered view of this Court, the official respondents issued notification under Section 4 (1) of the Act and also declaration under Section 6 of the Act, in respect of the land admeasuring Ac.18.68 guntas in Sy.No.57 of Vemunur Village, wherein the petitioner's name was not shown, as the petitioner's name did not reflect in the revenue records, the names of vendors of respondents 3 to 6 were shown in the notification, as the names of Edma Jagan Mohan Reddy and K.Indira were recorded as pattadars and enjoyers. Edma Jagan Mohan Reddy had given statement before the Land Acquisition Officer stating that he had sold away the land admeasuring Ac.18.27 cents in Sy.No.57 to respondents 3 to 6 viz., Dugyala Ravinder Rao, D.Rajeshwar Rao, V.Rudrama Devi and V.Rama Rao through a registered sale deed Nos.4568/03 and 4569/03, dated 19.12.2003. The purchasers 3 to 6 had attended the award enquiry and produced the sale deeds. The petitioner was given notice on 16.10.2006 to attend enquiry on 21.11.2006 along with documentary evidence. The petitioner appeared before the 2nd respondent on 21.11.2006, but failed to produce any documentary evidence in support of his claim.

The 2nd respondent passed order on 21.11.2006 in proceedings No.B/32/2006-IV holding that the petitioner-Rapole Balakishan Rao failed to produce any documentary evidence in support of his claim and action is being taken to pass Award and to pay compensation to the rightful owner, the said proceedings has become final. Thereafter, the 2nd respondent passed consent award under Section 11 (2) of the Act on 2.2.2007 and rejected the claim of the petitioner to refer the matter to the Civil Court.

The petitioner failed to show any valid ground to declare the award passed *vide* proceedings No.B/32/06-IV, dated 2.2.2007 as illegal, arbitrary, in view of the 2nd respondent's proceedings No.B/32/2006-IV, dated 21.11.2006, same has become final. There is no genuine dispute raised by the petitioner to refer the dispute to the Civil Court under Section 30 of the Act. The 2nd respondent rightly rejected the petitioner's claim to refer the dispute to the Civil Court. The counsel for the petitioner has relied on the unreported judgment of the Apex Court in Appeal (Civil) case No.5097-5099 of 2004, dated 7.3.2007, in *A.V.Papayya Sastry & ors vs. Government of A.P. & ors*, wherein it is held that any judgment, decree or order obtained by fraud on the Court, Tribunal or authority is a nullity and non est in the eye of law.

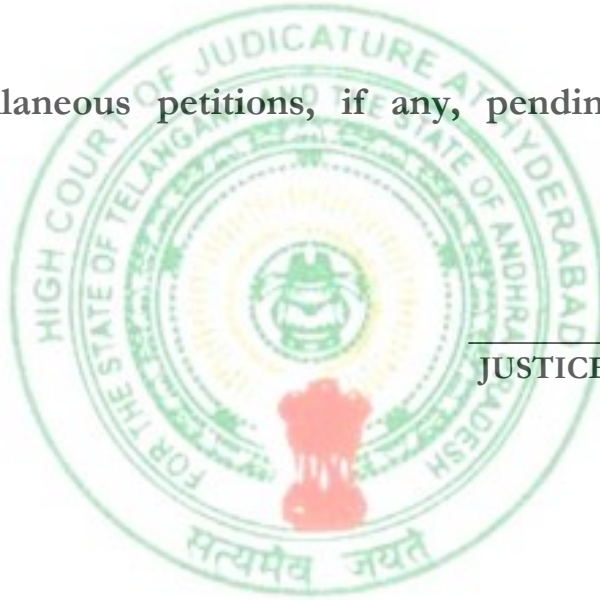
But the petitioner in the present case failed to establish any fraud in passing the award. Hence, the case has no application to the present case.

In view of the above, this Court of the view that there are no merits in the writ petition.

Accordingly, the Writ Petition is dismissed giving liberty to the petitioner to approach the Civil Court, if he has any grievance with regard to the payment of compensation . No costs.

Miscellaneous petitions, if any, pending shall stand closed.

5th February, 2018
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JUSTICE M.GANGA RAO