

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 16634 of 2011

O R D E R:

This Writ Petition is filed seeking a direction to the respondents to redetermine and pay the compensation under Section 28-A of the Land Acquisition Act, 1894 (in short "the Act") to the petitioners' lands under Award No.2/87-88, dated 11.04.1987, in L.A.O.P. No.44 of 1997, dated 25.10.2007, passed by the Principal Senior civil Judge, Kothagudem.

2) Heard the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition (Telangana).

3) The facts are not in dispute. The petitioners land came to be acquired in terms of the Notification under Section 4(1) of the Act, issued on 12.11.1985 and thereafter, after following the formalities, Common Award came to be passed on 11.04.1987, fixing the market value of the land at Rs.2,400/- per acre on the basis of capitalisation growth. One Sode Depatamma and four others filed Application before the Land Acquisition Officer under Section 18 of the Act to refer the matter to Civil Court. Accordingly, the matters were referred to Senior Civil Judge, Kothagudem and numbered as L.A.O.P. Nos. 43 of 1997 to 47 of 1997. Learned Principal Senior Civil Judge's Court at Kothagudem, vide Order dated 25.10.2007, had enhanced the compensation amount to Rs.10,000/- per acre from 2,400/-. The petitioners' assertion is that they applied for Certified Copy of the Decree in L.A.O.P.Nos.43 of 1997 to 47 of 1997 on 26.10.2007, however, as per the counter affidavit filed, the copy applications were made on 04.03.2008 and they were received by the petitioners' counsel on 13.03.2008. The petitioners further assert that they received the certified copy on 14.02.2008 and they submitted an application dated 12.04.2008 to the Land Acquisition Officer on 12.05.2008 seeking to enhance the benefit under Section 28-A of the Act. There is no dispute that the petitioners sought benefit of Section 28-A of

the Act. Though, in the counter affidavit, it is stated that the application was not made within 90 days, as required in terms of Section 28-A of the Act, it may be noted that the petitioners are illiterate. This Court can take judicial notice of the fact that, in normal circumstances, for a certified copy to be prepared and made available, considerable time will be consumed. The petitioners' assertion that on coming to know about the order passed by the learned Senior Civil Judge, they filed Applications through their Advocate P.Sambasivarao cannot be doubted. At any rate, even if one takes the Copy Application date as 04.03.2008, the same having been received on 13.03.2008, the Application filed before the Land Acquisition Officer on 12.05.2008, is well within 90 days limitation period. In as much as, the gap between 25.10.2007 to 04.03.2008 is clearly 5 months and the petitioner being resident of a remote Village in Khamma District, they cannot be presumed to have the knowledge about the judgment and decree passed by the Court at Kothagudem. Hence, the facts of the present case, the Writ Petition deserves to be allowed.

4) Accordingly, the Writ Petition is allowed, with a direction to the respondent to extend the benefits under Section 28-A of the Act and pay compensation to the petitioners as per the judgment and decree in L.A.O.P. No.43 of 1997, dated 26.10.2007 of the Principal Senior Civil Judge, Kothagudem within a period of four months from the date of receipt of a copy of this Order. No costs.

5) Consequently, the Miscellaneous Applications pending, if any, shall stand closed.

CHALLA KODANDA RAM, J

Date: 03.12.2018

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