

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.584 of 2007

ORDER:

This writ petition is filed seeking a writ of mandamus, declaring the declaration, dated 14.07.2006 in ROC No.4157/06/ISP issued under Section 6 of Land Acquisition Act by respondent No.1 for acquiring the land of Ac.2.25 cents in revisional Sy.No.1148/2 and Ac.1.17 cents in Sy.No.1147/1B of Devarapalli village, as illegal and arbitrary, and also seeking a consequential direction, directing the respondents not to undertake execution of any work on the petitioner Saw Mill and land without conducting enquiry, fixing and paying compensation.

Heard Sri Sitaram Chaparla, learned counsel for the petitioners and the learned Government Pleader for Land Acquisition.

It has been contended by the petitioners that the petitioners own large extents of land in Devarapalli village and the petitioners have agricultural lands as well as saw-mills in the said lands. While the petitioners were in peaceful possession and enjoyment of the said lands, the respondents had issued notification under Section 4(1) of the Land Acquisition Act (for short "the Act") on 14.07.2006 by invoking urgency clause. The petitioners have also agreed initially to part with their lands under the said land acquisition proceedings and have given their consent for acquiring their lands. But, however, the petitioners have submitted a representation on 29.07.2006 wherein they wanted higher compensation in respect of saw-mills on par with commercial properties and in respect of agricultural lands, they have agreed to receive compensation by way of a consent award. But the respondents, without considering their

representation, dated 29.07.2006, had passed an award on 14.07.2007. The petitioners have accepted the said award in respect of the agricultural lands, but disputed the compensation awarded in respect of saw-mills, and have protested to receive the said compensation.

The learned Government Pleader for Land Acquisition has contended that the award passed by the respondents on 14.07.2007 is a consent award and the question of granting enhanced compensation treating a part of land as commercial land would not arise, and question of referring the matter under Section 18 of the Act would also not arise. He has further contended that as the petitioners have protested to receive the compensation amount awarded to saw-mills, the same was kept in court deposit.

It appears that pursuant to the award, no notice under Section 12(2) of the Act was issued to the petitioners. In view of the same, the case of the petitioners has to be adjudicated on its merits. Therefore, strict insistence of time, as prescribed under Section 18 of the Act, cannot be insisted upon. Admittedly, the petitioners have submitted a representation on 29.07.2006, prior to passing of the award, for payment of compensation in respect of lands where saw-mills are situated on par with commercial properties. Without taking into consideration of the representation of the petitioners, the respondents have passed a uniform award on 14.07.2007. In view of the same, it becomes all the more necessity to refer the dispute of the petitioner to a competent civil court under Section 18 of the Act.

This court, having considered the rival submissions of both the parties, is of the view that when the petitioners have protested to receive

the amount of compensation awarded to saw-mills and the same was lying in civil court, in all fairness, the respondents ought to have referred the case of the petitioners to a competent civil court under Section 18 of the Act.

The writ petition is accordingly disposed of, directing the respondents to refer the case of the petitioners for enhancement of compensation in respect of saw-mills under Section 18 of the Act to a competent civil court, within a period of 8 (eight) weeks from the date of receipt of a copy of this order. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 10.04.2018
Dsr

ABHINAND KUMAR SHAVILI ,J

