

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.22083 OF 2017

ORDER:

Heard Mr.E.V.V.S.Ravi Kumar for petitioner and Mr.S.S.Varma for respondents 2 and 3. No representation for respondents 4 and 5.

The petitioner prays for the following relief:

....this Hon'ble Court may be pleased to issue a Writ order or direction especially one in the nature of Writ of Mandamus declaring the inaction of the Respondents No 4 and 5 in considering the representation dated 06.05.2017 and 06.06.2017 and also the letter addressed by the 3rd respondent 22.05.2017 for enhancing the compensation in terms of the Circular No 36/2016 dated 25th October 2016 issued by the Ministry of Finance Central Board of Direct Taxes, Government of India TDS should not be deducted under RFCTLARR ACT in accordance with Section 3G(6) of the National Highway Authorities Act, 1956 as illegal arbitrary unjust and against the procedure contemplated under The National Highways Act 1956, The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement (Second Amendment) Act 2013 and also violation of Article 14, 19, 21 and 300 (A) of Constitution of India and consequently direct the respondents No.4 and 5 to consider the representation dated 06.05.2017 and 06.06.2017 and letter addressed by the 3rd Respondent dated 22.05. 2017 in terms of Section 3G(6) of National Highway Authorities Act 1956 and pass.....”

The substantive grievance of petitioner is that respondent No.5 while passing the award has not applied the applicable factor to the land under acquisition. The further grievance is that as required by law, the copy of the award is not communicated by respondent No.5, at least to pursue the legal remedies available to petitioner against the award said to have been passed against petitioner. In other words, the petitioner contends that unless and until compensation is paid in accordance with law, the possession

or superstructures in the subject land should not be disturbed or petitioner dispossessed. On 06.06.2017, the petitioner represented to 5th respondent and the prayer in the representation reads thus:

“Hence, I therefore, request your goodselves to kindly refer the matter to the Appropriate Authority i.e., The Land Acquisition, Rehabilitation and Resettlement Authority, created under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (No.30 of 2013) or to the Arbitrator as per Section 3G(5) of the National Highways Act, 1956 for enhancing the compensation and for fixing reasonable and fair market value. On referring my matter to the Appropriate Authority created under RFTLARR Act, 2013 (No.30 of 2013) or to the Arbitrator as stated above a copy of the same may be forwarded to me. Since I have not received any copy of the award or intimation of passing of an award till now, this application is in time”.

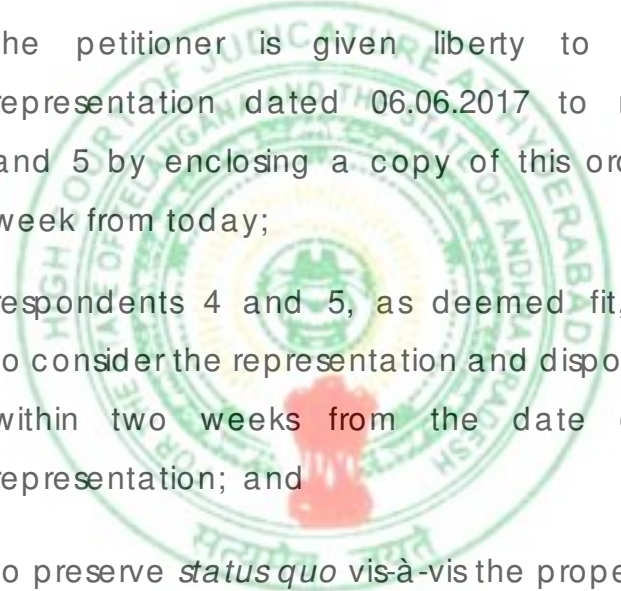
The award passed does not take note of the applicable actor. A representation is made and the representation remains unanswered. Either the action by passing a wrong award or inaction in disposing of representation deprives the proprietary right of petitioner without reference to law. Hence, the writ petition.

Mr.Ravi Kumar fairly states that in view of the basic details on which a decision is required to be taken by respondents 4 and 5, he submits that the petitioner is satisfied, if 5th respondent is directed to consider the representation dated 06.06.2017, advert to all the aspects raised therein and take a decision in accordance with law within reasonable period. He prays for preserving *status quo* as on day till a decision is taken and communicated to petitioner.

Mr.Varma does not object to issuing a direction for disposing of the representation dated 06.06.2017, but objects to restricting respondents 2 and 3 in developing the land for road widening.

Submissions are taken note of and this Court *prima facie* is satisfied that there is inaction on the part of respondent No.5 in adverting to the grievance canvassed by petitioner. The inaction of 5th respondent ought not to subject petitioner to further loss and hardship in this behalf.

Therefore, the writ petition is disposed of by this order:

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- (a) the petitioner is given liberty to re-submit the representation dated 06.06.2017 to respondents 4 and 5 by enclosing a copy of this order within one week from today;
 - (b) respondents 4 and 5, as deemed fit, are directed to consider the representation and dispose of the same within two weeks from the date of receipt of representation; and
 - (c) to preserve *status quo* vis-à-vis the property, the parties are directed to maintain *status quo* in all aspects for a period of three weeks.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

12th April, 2018

Note:

Issue CC forthwith
B/o Lrkm