

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.14894 OF 2007

ORDER:

This writ petition is filed challenging the proceedings of the first respondent in No.G2/38/2003, dated 22.05.2003, and also the Award of the second respondent dated 05.08.2005 (wrongly mentioned the date as 05.08.2003) in File No.F/296/2003.

2. It is the case of the petitioner that he is the absolute owner of dry land admeasuring Ac.1-20 guntas in Sy.No.63/3, situated at Tunkinipur Village, Addakal Mandal, Mahaboobnagar District. While so, the first respondent issued a notification under Section 4(1) of the Land Acquisition Act, 1984 (for short, the Act), proposing to acquire the land of the petitioner. Thereafter, the first respondent issued a gazette notification dated 26.05.2003 in District Gazette No.8 of Mahaboobnagar District under Section 6(1) of the Act, declaring that the said land had been acquired. Though Section 4(1) notification was issued on 22.05.2003 and though Section 6(1) declaration was given on 26.05.2003, the possession of the said land was not taken by the respondents and the petitioner is in possession and enjoyment of the same. As per Section 11-A of the Act, the Land Acquisition Officer i.e., the second respondent herein, shall pass an Award within a period of two years from the date of publication of the declaration, and if no Award is made within the said period, the entire proceedings for the acquisition of land would be lapsed. In the present case, Section 6(1) declaration was published on 26.05.2003 and the second respondent passed the Award on 05.08.2005 i.e., after the prescribed period and hence

the petitioner seeks to set aside the proceedings of the first respondent dated 22.05.2003 and also the Award of the second respondent dated 05.08.2005.

3. Sri M.Damodar Reddy, learned counsel for the petitioner, relied on a decision of this Court in **Madhava Rao Gandhe Vs. Land Acquisition Officer, Quili Qutubshah Urban Development Authority, Hyderabad**¹ and argued that by virtue of Amendment Act 68 of 1984, which came into force from 24.09.1984, incorporating Section 11-A in the Act obligating the acquisitioning authority to pass the Award within two years from the date of draft declaration under Section 6 of the Act, the proceedings of the first respondent dated 22.05.2003 and also the Award of the second respondent dated 05.08.2005 are liable to be set aside.

4. Sri Anil Reddy, learned Assistant Government Pleader for Land Acquisition, submitted that (i) Award is passed within two years, (ii) possession of the subject property has been taken over and (iii) compensation under Section 31 of the Act has been deposited in the concerned civil Court and hence, the writ petition is liable to be dismissed.

5. Insofar as first argument of the learned Government Pleader is concerned, it is evident from the records that Section 6(1) declaration was published on 26.05.2003 and the second respondent passed the Award on 05.08.2005 i.e., after two years. Insofar as second argument is concerned, the possession of the subject property is with the petitioner, as the revenue records

¹ 1994 (3) ALT 175

reflect the name of the petitioner in respect of the subject property. Insofar as third argument is concerned, Section 31 of the Act comes into play only when the Government deposits the compensation amount in the Court on refusal by the landlord to receive the amount. There is no evidence before this Court to the effect that the petitioner refused to receive the compensation amount and on 18.09.2007 they deposited the amount in the civil Court under Section 31 of the Act without establishing the first requirement under Section 31, the refusal part.

6. In the similar circumstances, this Court in **Madhava Rao Gandhe's** case (supra), held that 'the requirement under Section 11-A of the Act is a mandatory one and not a directory and there is no meaning in passing an Award without there being money readily available with the Land Acquisition Officer for disbursement. If the money is not at the disposal of the Land Acquisition Officer at the time of passing of the Award, even if the Award is passed, it is only a paper Award and such a technical satisfaction under Section 11-A of the Act is not contemplated. Section 11-A of the Act substantively requires not only passing of the Award within two years, but also keeping the amount awarded ready with the Land Acquisition Officer at the time of passing of the Award for the purpose of disbursement or deposit'. In the instant case, Section 6(1) declaration was published on 26.05.2003 and the second respondent passed the Award on 05.08.2005 i.e., after two years. In the circumstances, I hold that the mandatory requirement under Section 11-A of the Act has not been satisfied by the respondents

and Section 11-A of the Act operated and the proceedings of the first respondent in No.G2/38/2003, dated 22.05.2003, issued under Section 4(1) of the Act stood extinguished. As an inevitable corollary, the impugned Award dated 05.08.2005 became *non est* under law.

7. The writ petition is accordingly allowed. As a sequel, the miscellaneous petitions pending if any shall stand closed. No order as to costs.

T.AMARNATH GOUD, J

Date: 24-08-2018
TJMR

