

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.9757 OF 2007

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus directing the respondents to refer the claims of the petitioners to the Court of the Senior Civil Judge, Rajampet, by implementing the orders passed in W.P.No.5465 of 1989, dated 1.12.1989, relating to Award No.2 of 1978, Reach No.X, pertaining to the lands of Vakamada Village, Gopavaram Mandal, Kadapa District, for adjudication forthwith.

Heard Sri D.Kondanda Rami Reddy, learned counsel appearing for the petitioners and learned Government Pleader for Land Acquisition.

It is the case of the petitioners that they are owners of various extents of land in erstwhile Sidhout Taluk, Vakamada Village, Gopavaram Mandal, Kadapa District. Their lands were sub-merged in Somasila Project. Hence, the respondents had issued notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act'), which was published on 20.2.1981. Thereafter, the respondents have passed an Award granting compensation of Rs.4,500/- per acre for category 1-A and Rs.2,500/- per acre for category-II. The respondents had not issued any notice to the petitioners

as required under Section 12 (2) of the Act. In those set of circumstances, the petitioners have requested the respondents to refer the case under Section 18 of the Act to the competent Civil Court for enhancement of compensation. When the respondents had not passed any orders, the petitioners filed W.P.No.5465 of 1989 before this Court and the same was allowed along with W.P.Nos.5284 and 5469 of 1989 on 1.12.1989. The operative portion of the said order reads as under:

“Accordingly, the writ petitions are allowed and the petitioners are directed to file applications for reference. Within three months thereafter, matter be referred to the Civil Court. But the petitioners are not entitled to interest from the date of award till the date of reference.”

In spite of the said direction, the respondents had not referred the case of the petitioners under Section 18 of the Act to the competent Civil Court.

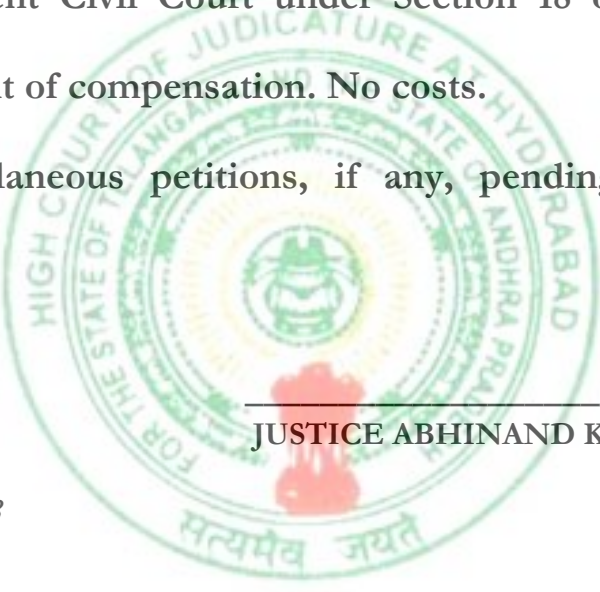
Learned Government Pleader for Land Acquisition contends that the cases of the petitioners could not be referred to the competent Civil Court as the signatures and thumb impressions were not tallying with that of the signatures and thumb impressions made in ‘C’ Form when initial compensation was received by them.

In view of the facts and circumstances of the case, this Court is of the considered view that the cases of the

petitioners deserve to be referred to the competent Civil Court under Section 18 of the Act and the issue as to whether the signatures and thumb impressions are tallying or not would be decided by the competent Civil Court at the time of determination of the aspect of enhancement of compensation. This is not the stage to raise such an objection.

Accordingly, the Writ Petition is allowed and the respondents are directed to refer the case of the petitioners to the competent Civil Court under Section 18 of the Act for enhancement of compensation. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE ABHINAND KUMAR SHAVILI

24th April, 2018
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