THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.6587 of 2008

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner – Ganapathy Co-operative Housing Society, Maredpally, seeking verbatim the following relief:

> **'..to issue a writ order or direction more particularly one in the nature of Writ of Mandamus to declare the inaction and conduct of the respondents herein for not passing the award for the lands acquired of an extent of Ac.9.22 guntas in Sy.No.73 of Maredpally village, Maredpally Mandal (previously in Secunderabad Mandal) Hyderabad District as per the order of this Hon'ble Court in W.P.No.1341 /1991, dt.8.10.1999, till date as illegal, arbitrary, unconstitutional and violation of Article 300-A of Constitution of India and consequently to direct the respondents herein to implement the order in W.P.No.1341 /1991, dt.8.10.1999 and pass such other order or orders..'**

2. When this writ petition was taken up for hearing, on 16.08.2018, there was no representation for the writ petitioner. Even on this day also there is no representation for the writ petitioner society.

3. Learned Government Pleader for Land Acquisition is present.

4. From the record and the submissions made by the learned Government Pleader, the following facts are noticeable:

The land in respect of which the writ petitioner society claims ownership was the subject matter of a notification issued under Section 4(1), on 04.05.1979, as per the provisions related to compulsory acquisition under the Land Acquisition Act, 1894. The petitioner society filed WP.No.6464 of 1979

and the said writ petition was dismissed. Writ Appeal in WA.No.538 of 1981 filed by the petitioner society was allowed and the said notification issued under Section 4(1) of the Act was quashed. Again there was a proposal to acquire the very same land compulsorily under the provisions of the Act and a notification under Section 4(1) of the Act was accordingly published in Gazette, dated 31.12.1983. The same was questioned by filing WP.No.8267 of 1984. The said writ petition was allowed by an order, dated 23.01.1986, and the draft declaration published under Section 6 of the Act was quashed and a direction was given to conduct an enquiry under Section 5-A of the Act after giving due notice to the petitioners therein. In the said orders, this Court observed as follows: - **'It should not be forgotten that the petitioners with positive purpose being houseless persons purchased this land though long ago could not negotiate the whole scheme because of the undue pressures from outsiders….The needy persons for which the land is sought to be acquired should not unnecessarily be inflated and the purpose also should be fulfilled while executing the scheme itself thus giving a relief by way of leaving certain portions of the owners who are equally in need of it. The issue has to be tacked in humanitarian way more essentially without being influenced or for any extraneous reasons.'** Thereafter, the 1st respondent once again issued declaration under Section 6 of the Act; and, the same was published in Gazette on 08.02.1989; and, the MRO concerned was appointed as Land Acquisition Officer. He issued notices to the petitioners calling for their objections, if any, in the matter. The petitioner society submitted their reply, on 10.06.1989, requesting the respondents to pay the compensation at the market value with all statutory benefits and not to

acquire the extent of Ac.138.00 guntas as the members of the petitioner society wanted to retain the said extent of land. At that stage a writ petition in WP.No.1314 of 1991 was filed before this Court *inter alia* complaining that the 2nd respondent - MRO concerned started entertaining claims from several persons including some middle persons and interlopers and that, therefore, the petitioner society is apprehensive that compensation payable in respect of the land proposed to be acquired would be paid to some third parties instead of the petitioner society and its members. This Court passed an interim order, on 01.02.1991, to the following effect: - **'The 2nd respondent herein, namely, the Mandal Revenue Officer, Secunderabad mandal, be and hereby is directed not to pay compensation to any third parties with respect of the land in Sy.No.73 of Marredpally Village, Secunderabad for one month from the date of this order.'** The said order was extended during the pendency of the said writ petition. Eventually, while observing that if there is any dispute with regard to title, the respondents concerned are anyhow obligated under Section 30 of the Act to make reference to the civil Court for determination of title of the land and payment of compensation as per Rules, this Court disposed of the writ petition by order, dated 08.10.1999. The operative portion of the said order reads as under: - '**For all the aforesaid reasons, this writ petition is disposed of directing the respondents to pass an Award under the provisions of the Land Acquisition Act, 1894, in accordance with law in respect of the land acquired pursuant to the notification issued under section 4(1) of the Act on 06.02.1989 and the declaration made on 28.02.1989. The award shall be passed within six months from the date of receipt of a copy of this order.'** Thus, as per the

said orders, the award shall be passed within six months from the date of receipt of a copy of that order. However, when the said order was not implemented, the President and Secretary of the petitioner society addressed a letter, dated 10.08.2004, to the District Collector – 1st respondent requesting to consider the matter sympathetically on humanitarian grounds and finalize the award expeditiously and ensure justice to the plot owners in Sy.No.73 of Marredpally village. According to the petitioner society, despite the said letter, the order of this Court, dated 08.10.1999, in WP.No.1341 of 1991 was not implemented. Therefore, the present writ petition is filed for implementation of the said orders of this Court.

5. The Tahasildar concerned filed a counter affidavit on behalf of respondents 1 & 2. He, having narrated the chronology of events which lead to the filing of this writ petition and while stating that the petitioner society has no concern with the land, which was proposed for acquisition, *inter alia,* stated that after correspondence between the Government, the Social Welfare Department and the Collector, the Government have decided to drop the acquisition proceedings and that since the Government have not taken possession of the subject land and as the Award was not passed within two years period from the date of publication of the declaration, the acquisition proceedings stood lapsed in view of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. Therefore, the learned Government Pleader submits that the question of passing an Award does not arise as the land acquisition proceedings had lapsed.

7. In view of the aforesaid reasons and for non prosecution, the writ petition is dismissed.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M.SEETHARAMA MURTI, J

20.08.2018
Vjl