

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION Nos.25546 AND 40545 OF 2018

Date:27.11.2018

W.P.No.25546 of 2018

Between:

Nirvasitula Sankshema Sadhana Samithi
(NISS), rep., by its General Secretary
P. Rama Subba Reddy, aged about 44 years,
R/o.2/166, Kapupalli Village, Mangampet
Post, Obulavaripalli Mandal, YSR Kadapa
District, Andhra Pradesh .. Petitioner

And

The State of Andhra Pradesh, rep., by its
Principal Secretary to Government,
Industries & Commerce Department,
Secretariat, Velagapudi, Amaravathi,
Guntur District and others .. Respondents



The Court made the following:

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COMMON ORDER:

Heard.

2. Petitioner - Nirvasitula Sankshema Sadhana Samithi owns various extents of lands in Hamlet Villages of Kapupalli, Harijanawada, Arundhathiwada, ST Colony and Agraharam of Mangampet Post, Obulavaripalli Mandal, Y.S.R. Kadapa District. The lands of its members were sought to be acquired for the purpose of mining operations to be undertaken by the Andhra Pradesh Minor Mineral Corporation Limited. Awards were passed on various dates. Alleging that without paying adequate compensation for the lands, structures and standing trees of the members of the petitioner - Samithi, dispossessing them, petitioner - Samithi earlier filed W.P.No.25546 of 2018. This Court, by order dated 03.08.2018 directed the respondents not to dispossess the members of the petitioner - Samithi without paying compensation to them in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act') and providing resettlement and rehabilitation.
3. Though awards were passed determining the compensation, members of the petitioner are not satisfied with the compensation arrived at and claimed higher compensation.
4. According to learned counsel for the petitioner - Samithi, the market value of the lands is more than Rs.25,00,000/-

per acre, whereas the compensation determined is only Rs.3,30,000/-, as basic value. According to learned counsel, as required by Section 26 (1) of the Act, while determining the compensation, the parameters laid down therein are required to be observed, whereas they were not observed by the Land Acquisition Officer and on account of such wrong determination, great injustice is caused to the members of the petitioner. Though the members of the petitioner can file an application for reference to the authority under Section 64 of the Act as the determination of compensation was illegally done, the members of the petitioner - Samithi need not avail the said remedy and can institute the Writ Petition. Learned counsel endeavours to submit that there should be direction to the respondents to re-determine the compensation by strictly observing Section 26 of the Act.

5. To test this contention, Award No.3 of 2018, dated 25.06.2018 is seen from internal page No.4 onwards. There is discussion of scope of Section 26 of the Act; the sale transaction that took place; registered value; why the members of the petitioner are not accepting the transactions requesting the higher amount per acre and assigned reasons in support of its decision as to how he arrived at Rs.3,30,000/- as the basic value. Thus, it cannot be said that there was no application of mind and that the provisions of Section 26 (1) of the Act were not looked into before determining the basic value of the land under acquisition. It may be entirely different aspect as to whether the determination was erroneously arrived at and

whether the proper parameters were not looked into by the Land Acquisition Officer in arriving at the basic value.

6. Section 64 of the Act vests right in land holder to seek enhancement of compensation, if he is not satisfied with the compensation determined by the Land Acquisition Officer and claiming to refer to the authority. The representation submitted on 15.10.2018 is not meeting the requirements of Section 64 of the Act. Further, it was made to the Land Acquisition Officer. As Land Acquisition Officer has already considered the issue and determined the compensation payable, question of remitting the matter to him to consider prayer to enhance the compensation would not arise. Moreover, the Court, *prima facie*, found that it was not a case of non application of mind and not a case of non-consideration of the provisions of Section 26 of the Act *per se*. However, on an application filed by the land losers under Section 64 of the Act, all issues can be gone into by the authority including contention on not observing appropriate parameters, while determining the compensation by the original authority as sought to be urged by the learned counsel for the petitioner. However, as seen from the representation dated 15.10.2018, it does not reflect the stand of the members of the petitioner seeking enhancement of compensation.

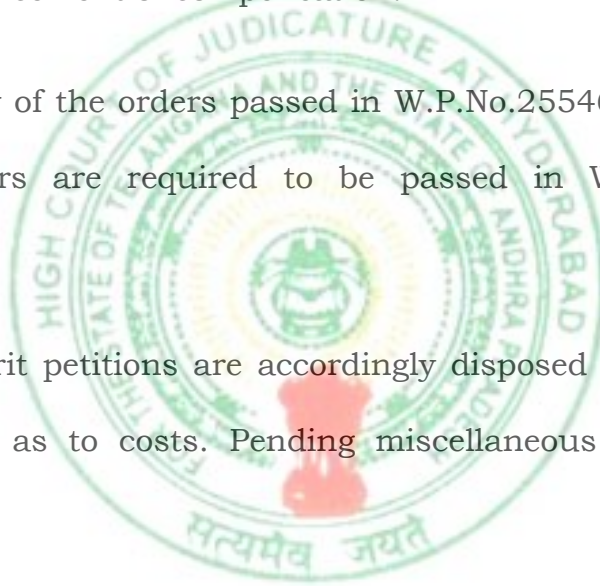
7. Having regard to the above, liberty is granted to the members of the petitioner – Samithi to file individual applications under Section 64 of the Act seeking enhancement of compensation. It is open to the individual land losers to raise all pleas, as available in law, including the manner in which the

basic value is arrived at by the Land Acquisition Officer, while passing the awards. If such applications are made to the competent authority within one week from the date of receipt of a copy of this order, the authority shall endeavour to dispose of the said applications as expeditiously as possible, preferably within three months, after affording due opportunity.

8. It is open to the members of the petitioner – Samithi to receive compensation, as determined, and merely because the compensation is received by them does not take away their right to seek enhancement of compensation.

9. In view of the orders passed in W.P.No.25546 of 2018, no further orders are required to be passed in W.P.No.40545 of 2018.

10. The Writ petitions are accordingly disposed of. There shall be no order as to costs. Pending miscellaneous petitions shall stand closed.



P.NAVEEN RAO, J

Date:27.11.2018

Note:- Issue C.C. one week.

(B/o)
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