

THE HONOURABLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.16918 of 2007

ORDER:

This writ petition is filed seeking the following relief:

“.....to issue writ especially Writ of Mandamus, directing the respondents to pay the determined compensation amount together with interest to the petitioners in respect of their acquired land as per the Judgment and Decree in O.P. No.9 of 1991 on 31.1.2000 on the file of Senior Civil Judge, Miryalaguda as confirmed in A.S.No.2183 of 2000, dated 7.2.2003 on the file of High Court of Andhra Pradesh by declaring the action of the respondents in not paying the determined compensation to the petitioners as arbitrary, illegal, violative of Articles 14, 21 and 300-A of the Constitution of India”.

The case of the petitioners is that the petitioners are the owners of the land in an extent of Ac.01.35 guntas situated at Raghunathapalem village, Mattampalli Mandal, Nalgonda District and the said lands were acquired under the Land Acquisition Act for formation of Command Area Development Authority (CADA) roads under Nagarjuna Sagar Project by issuing a Notification under section 4 (1) of the Land Acquisition Act, 1894, on 30.10.1980 and possession was taken on 30.3.1983. The respondent No.2 passed an award on 8.6.1984 under

the Land Acquisition Act, awarding a meager compensation of Rs. 530/- per acre under Nagarjuna Sagar Project Act. As the petitioners were dissatisfied with the compensation determined by the Land Acquisition Officer, they sought a reference to the Civil Court (Senior Civil Judge, Miryalaguda) in O.P.No.9 of 1991 to enhance the compensation and the Senior Civil Judge, Miryalaguda, Nalgonda re-determined the compensation at the rate of Rs.20,000/- per acre in O.P.No.9 of 1991, by order dated 31.1.2000. Aggrieved by the same, the State preferred an appeal by filing A.S.No.2183 of 2000 and the said appeal was dismissed on 7.2.2003. Aggrieved thereby, the State preferred an appeal by way of S.L.P.No.449 of 2004, but the same was dismissed on 27.01.2004 by the Hon'ble Supreme Court. The other claimants without seeking reference under section 18, basing upon the Judgment in O.P.No.9 of 1991, made claims under section 28-A of the said Act and they have been paid the amounts under Award No.1 of 2004-05 by the Land Acquisition Officer on 31.3.2005, but the petitioners herein were discriminated. Therefore, the petitioners pursued their remedy by filing E.P.No. 160 of 2004 on the file of the Senior Civil Judge, Miryalaguda and an order of arrest of Judgment

Debtors was ordered but the same has not been executed. The petitioners' efforts for realizing the amounts have become ineffective and futile. The petitioners, who are at advance age and facing financial problems, continue to languish without having received the compensation, in view of non-cooperative attitude of the respondent authorities. Questioning the said action of the respondents in not paying the compensation as determined by orders dated 7.2.2003 in A.S.No.2183 of 2000, this writ petition is filed.

At the time of admission of the writ petition, the respondents were directed to deposit the entire compensation amount as per law, as determined by the Court of learned Senior Civil Judge, Miryalaguda by the order dated 31.1.2000 in O.P.No.9 of 1991, to the credit of E.P.No.160 of 2004 on the file of the said Court by the close of Court hours on Monday i.e., 13.8.2007 after taking credit for any amount already deposited/paid.

The respondent No.2, on behalf of the respondent No.3, filed counter-affidavit stating that the lands of the petitioners were acquired for the purpose of CADA Ayacut Road from Jogikunta to Gundlapalli from Kms.10/5 under the provisions of Nagarjuna Sagar

Project Act and an award was passed vide proceedings No.41/84, dated 8.6.1984 by fixing compensation at the rate of 520 per Acre. Aggrieved by the same, the awardees have filed application under Section 18 for reference to Civil Court for higher compensation. The same was referred to the Senior Civil Judge's Court, Miryalaguda *vide* O.P.No.9 of 1991. The Senior Civil Judge passed orders on 31.1.2000 enhancing the compensation @ Rs.20,000/- per acre. Aggrieved by the same, the Government had preferred an appeal *vide* A.S.No.2183 of 2000 and the same was dismissed on 17.2.2000 and S.L.P., was also filed before the Hon'ble Supreme Court and the same was dismissed on 21.7.2004 confirming the order of the Senior Civil Judge, Miryalguda. In compliance of the order in O.P.No.9 of 1991, dated 7.2.2003, the proposals for sanction of decretal amount of Rs.2,17,297/- for the land to an extent of Acs. 1.35 gts., was submitted to the Special Collector (LA) SRSP, AMRP, Tarnaka, Hyderabad. On 15.1.2005, a letter No.B/680/1990, was addressed requesting to recommend to the Government for sanction of the amount. Accordingly, the Special Collector sent the proposals to the Government through the Chief Commissioner of Land Administration, Andhra

Pradesh, Hyderabad *vide* Lr.No.B3/2071/2000, dated 25.01.2005. Meanwhile, the claimants in O.P.No.9 of 1991 have filed E.P.No.160 of 2004 for realization of decretal charges of Rs.2,38,285.89 ps. Again the petitioners filed this writ petition, while the decretal proposals are pending at Government level. The Government sanctioned decretal amount of Rs.2,16,205/- *vide* G.O.Rt.No.1231, I&CAD (Genera.IV.2) Department., dated 5.11.2007. The sanctioned amount of Rs.2,16,205/- was deposited in the Court of the Senior Civil Judge, Miryalaguda on 11.01.2008. D-Form and acknowledgment were filed as Ex.R1 in this regard.

The Senior Civil Judge, Miryalaguda passed orders dated 24.8.2012 in E.P.No.160 of 2004 in O.P.No. 9 of 1991 for payment of Rs.63,745.44 ps. towards balance decretal charges with 15% interest on market value, 30% Solatium and on 12% Additional market value till realization. The said orders are not communicated and hence, these respondents are not aware of the orders of the Senior Civil Judge, Miryalaguda. When the writ petition came up for hearing, they came to know the fact about the passing of the orders in E.P.No.160 of 2004, dated 24.8.2012 and immediately, the respondents approached the Senior Civil Judge Court and obtained

certified copy of the order in E.P., on 2.3.2018 and further, they came to know that an amount of Rs.63,745.44 ps is due. Accordingly, the decretal proposals for an amount of Rs.1,15,879/- duly calculating the interest as on 7.3.2018 were submitted to the Special Collector, Nalgonda *vide* Lr.No.B/680/90, dated 7.3.2018, with a request to recommend the proposals to the Government for sanction of the said amount.

In view of the facts and circumstances of the case and in considered view of this Court, it is found that the respondents even after lapse of several years, after several proceedings and correspondence, have not paid the compensation to the petitioners for acquisition of their lands, as per the decree and Judgment passed by this Court in A.S.No.2183 of 2000 and the respondents are delaying the matter on one pretext or other. The petitioners are at advance age and they are facing financial difficulties.

In view of the above, the writ petition is allowed directing the respondents to pay the decretal amount, as determined in E.P.No.160 of 2004 by order dated 24.8.2012, which was assessed at Rs.1,15,879/- by way

of decretal proposals of the respondents, within two months from the date of receipt of a copy of this order, otherwise, the petitioners are entitled for the interest applicable under the provisions of Land Acquisition Act.

Consequently, miscellaneous petitions pending, if any, shall stand closed. No costs.

JUSTICE M.GANGA RAO

Date :13.03.2018
slk

