

THE HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.2398 of 2013

ORDER:

Heard Smt G.Neeraja Reddy, learned Standing counsel for Agricultural Market Committee for the petitioner, the learned Government Pleader for Land Acquisition for respondent No.1 and Mr.V.V.Satish for respondent No.2.

The petitioner prays for *mandamus* declaring the proceedings of the 1st respondent in Rc.No.I(A)/1543(1526)/2009, dated 29.11.2012, as illegal, arbitrary and without jurisdiction.

The controversy in the instant writ petition centres around small extent of land measuring Ac.0.05 cents and the fact in issue for decision on the extent of Ac.0.05 cents is whether the petitioner is in possession of more land than what is acquired and handed over to petitioner and whether the request of 2nd respondent for delineating the acquired land and private land are depriving the propriety right of the petitioner.

The operative portion of the proceedings dated 29.11.2012 reads thus:

“After examining the reports of repeated surveys and current survey and also after examining the legal rights existing between the petitioner Sri Modepalli Ramachary and the pattadar Late Smt Sriramoju Kristakka, (grandson of the pattadar from whom land was acquired), it was found that an extent of Ac.0.05 cents is under possession of Market Yard which was not come under Land

Acquisition process by them and the same can be handed over to the petitioner.

Hence, the Tahsildar, Bhadrachalam is hereby instructed to resume the land to extent of Ac.0.05 cents from the Market Yard Authorities and handover to Sri Modepalli Ramachary under cover of panchanama and report compliance.”

The Agricultural Market Committee raises a few legal objections on the jurisdiction and authority of Sub-Collector/1st respondent against the proceedings impugned in the writ petition.

The counter affidavit filed by 1st respondent explains in detail how the 1st respondent under the Land Acquisition Act, 1894 has exercised his jurisdiction and also how the 1st respondent is proposing to protect the right of a citizen.

The counsel for the petitioner under these circumstances places strong reliance on representation dated 23.05.2012 given by petitioner to 1st respondent for survey of land in Sy.No.20/108 and passing appropriate orders thereon. In other words, petitioner requests for survey of land in possession of the petitioner and the total extent of land in Sy.No.20/108 (old) corresponding number 7/12 (new), boundaries delineated and thereafter orders passed.

Mr.V.V.Satish tries to persuade this Court that the finding now recorded by the 1st respondent are in terms of survey conducted on three (03) occasions. The effort now suggested by petitioner is an exercise in futility and to waste

time of every one. Mr.Satish further contends that as the 2nd respondent cannot encroach into the land not acquired by the Government for the benefit of petitioner, likewise, the petitioner cannot also claim possession or title over the land acquired and possession delivered to petitioner. Therefore, this a case of delineation of acquired and unacquired land by preparing sketch plan.

I have heard the counsel appearing for the parties and perused the record. This Court *prima facie* is of the view that the grounds raised by the petitioner against the jurisdiction of 1st respondent to resolve the land acquired by Government and land retained by 2nd respondent can be adverted to and completed under the provisions of Land Acquisition Act, 1894 (for short 'the Act'), hence are untenable.

The request of petitioner is that the survey is conducted in the presence of petitioner. Though the request of survey in the presence of petitioner is a belated request, this Court with a view to ensure protection of rights of both the parties, i.e., petitioner and the 2nd respondent, disposes of writ petition by this order:

- (a) The order impugned in the writ petition in Rc.No.I(A)/1543(1526)/2009 dated 29.11.2012 is set aside.
- (b) The File No.I(A)/1543(1526)/2009 is restored to the file of the 1st respondent for enquiry and decision afresh.

- (c) The 1st respondent is directed to order survey of the land acquired for the benefit of the petitioner and the land claimed by the 2nd respondent, receive the report and pass orders within eight (08) weeks from the date of receipt of copy of this order.
- (d) The petitioner as well as the 2nd respondent are given liberty either to file a work memo before the surveyor or the documents along with earlier survey reports on which they are relying upon.
- (e) The 2nd respondent for expeditious consideration and disposal files a memo and gives the address to which the correspondence or notice be sent by 1st respondent.

Writ petition is disposed of as indicated above. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 19.03.2018
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S. V. BHATT, J

