

THE HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.3192 of 2017

ORDER:

Heard Mr.Pasam Srinivasa Reddy and Mr.D.Ramesh and the learned Special Government Pleader representing the office of Advocate General, State of A.P.

The writ petition was heard on 12.04.2018 and at the request of Special Government Pleader, the writ petition was adjourned to enable him to get written instruction from the office of respondent No.2. The instructions in Rc.No.17/2006 LA dated 13.04.2018, received from the office of 2nd respondent are placed on record.

The petitioner prays for *mandamus* declaring the action of respondents in not following the procedure stipulated by Land Acquisition Act or Act 30 of 2013 in dispossessing the petitioner from an extent of Ac.3-00 in Sy.Nos.201/2, 202, 202-5A of Karilimma Village, Kotturu Mandal, Srikakulam District, as illegal, arbitrary and unconstitutional.

The petitioner relies on the sale transaction covered by Document No.261 of 1959 executed in favour of one Pothula Varalakshammama, mother of petitioner herein by Sri Sri Sri Krishna Chandra Gajapathi Narayana Dev. Therefore, petitioner being only daughter of vendor under Doc.No.261 of 1959 claims right and title to the petition lands. It is contextual to refer at this stage of narration that the

Doc.No.261 of 1959 covers Sy.No.202 and an extent of Ac.2-00.

Be that as it may, the petitioner's husband on 30.07.2011, filed representation complaining unauthorized and illegal dispossession of petitioner from petition land. The representation remained unattended. Under these circumstances, on 30.01.2017, the present writ petition is filed for the prayer stated above.

This Court granted interim order on 31.01.2017. The respondents filed counter and also petition to vacate the interim order and also prayed for dismissing the writ petition. The reply of respondent is that the case on hand cannot be treated as acquisition of land by the department for the stated public purpose of Vamsadhara Phase-II, Stage-II for formation of Parapuram Balancing Reservoir for Section 4(1) notification dated 24.07.2006 was issued and for the petition lands, after verification of revenue records, the name of Sree Narasimha Swamy Temple was shown and Award No.7-2006-07, dated 12.02.2007 was passed and compensation to Sree Narasimha Swamy Temple was already paid. According to respondents, all through, in the revenue records, the name of the temple alone is shown for the petition land. To show the ownership as vesting with the institution, the respondents rely on register maintained under Section 43 of Act 30 of

1987. Therefore, the compensation was paid to the owner of the land and prayer in the writ petition is misconceived.

The Special Government Pleader made submissions by referring to the stand taken in the counter affidavit and also the documents by which the respondents are relying on. To the pointed query, whether the compensation payable for acquiring the land is paid both to the owner and enjoyer of the property, the Government Pleader has taken time and as already noted, places on record, the instructions received from 2nd respondent. Before proceeding further, the Court with the consent of the counsel appearing for the parties incorporates the written instructions as follows:

“Sir,

Sub: Suits-W.P.No.3192 of 2017 filed before the Hon'ble High Court of A.P., Hyderabad filed by Smt.Kovvada Tavitamma, W/o Gopala of Masingi Village Kotturu Mandal, Srikakulam District-Report submitted-Reg.

Ref:- W.P.No.3192 of 2017 filed by Smt Kovvada Tavitamma, W/o Gopalu of Mahasingi Village, Kotturu Mandal, SKL District.

As per the discussions, we have verified the record pertaining to 4 (1) Notification dated 24.07.2006. the said 4(1) Notification issued in respect of the lands situated in Karilimma Village, Kotturu Mandal, Srikakulam District, Andhra Pradesh. The said lands are needed for Public Purpose i.e., Vamsadhara Phase-II, Stage-II for formation of Parapuram Balancing Reservoir. The said Notification lands are situated in Sy.No.201/2A and the lands in Sy.No.202/5A were also included. Consequent to the said Notification, after following due process of law, consent Awards were passed on 12.02.2007 and the amounts were also disbursed to the concerned Pattadars. As far as the

land situated in the above said Survey Numbers, on verification of the records, the lands are in the name of Sree Narasimha Swamy Temple, hence we have paid compensation of Rs.10,45,426/- to the Assistant Commissioner, Endowments Department, Srikakulam through Cheque No.166653, dated 26.6.2007.

After receiving the phone call from the Office of the Advocate-General, Andhra Pradesh, we have verified the concerned records and there is no record forthcoming with regard to conducting an enquiry about the persons who are in enjoyment of the said lands and we have also enquired about the possession and enjoyment of the lands by the petitioner herein. It came to know that the petitioner is only in enjoyment of an extent of Ac.1.37 in Sy.No.202/5A.

Even though we have paid the compensation amounts to the pattadar i.e., Sree Narasimha Swamy Temple, we have not paid any compensation to the persons those who are in actual possession of the land. For complying the provisions of the Land Acquisition Act, 1894 particularly Section 9 (3) and other provisions, we will make arrangement for payment of ex-gratia amount to the petitioner for the land which she is in possession as of now from the Endowment Department.

Yours faithfully,
Sd/-
Spl.Sy.Collector LA Unit-IV
B.R.R. Vamsadhara Project
Srikakulam”

From the above, it is clear, though not for all the Survey Numbers referred in the petition, the respondent agreed to pay compensation by way of ex-gratia in terms of the Government order in force, namely G.O.Ms.No.259 dated 21.06.2015. By accepting the omission in the enquiry that the right of the petitioner as an enjoyer to an extent of Ac.1-30 in Sy.No.202/5A missed the contention of the department, the writ petition is disposed of by this order.

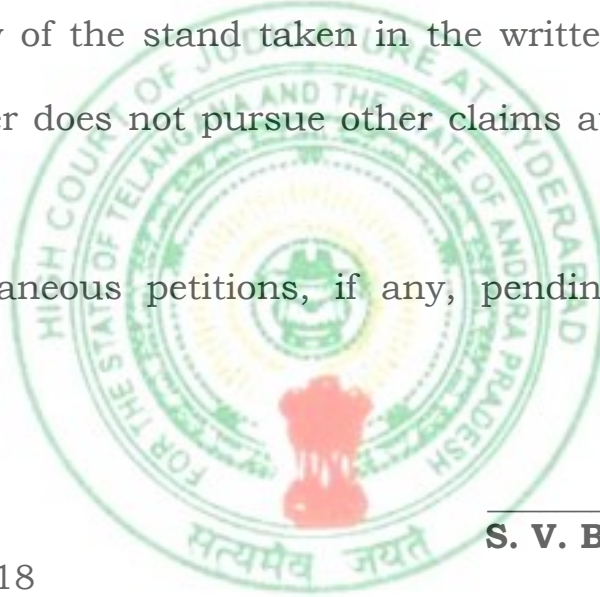
The interim order granted by this Court on 31.01.2017 is vacated, having regard to the stand taken by the respondents and accepted by this Court.

The 1st and 2nd respondents are directed to pay ex-gratia/compensation to petitioner for an extent of Ac.1-37 cents in Sy.No.202/5A by way of Account Payee Cheque drawn in the name of petitioner within four (04) weeks from today. In default of subject payment, the interim order granted by this Court will revive till the payment is made,.

In view of the stand taken in the written instructions, the petitioner does not pursue other claims at all. No order as to costs.

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

Dt: 17.04.2018
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S. V. BHATT, J

