

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.1717 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief/s:

‘... to issue a Writ or order or Direction in the nature of Writ of Mandamus declaring the action of the respondents 1 to 3 ignoring the legal notice, dated 28.11.2016 and ready to pay the compensation to the Respondents 4 and 5 for the land of Ac.6.03 cents in R.S.No.1629/1 and Ac.4.00 Cents in R.S.No.1629/2 situated at Buttaigudem Village of Jeelugumilli Mandal West Godavari District when the Revision Petitions are pending before the 2nd Respondent is illegal, arbitrary and violation of principles of natural justice and consequently direct the respondents 1 to 3 to pay compensation to the petitioner with regard to the above mentioned lands and pass such other or orders.’

2. I have heard the submissions of Sri Naram Nageswara Rao, learned counsel appearing for the writ petitioner, of the learned Government Pleader for Land Acquisition appearing for the respondents 1 & 3, of the learned Government Pleader for Social Welfare appearing for the 2nd respondent; and of Sri Sita Ram Chaparla, learned counsel appearing for the respondents 4 & 5.

3. The facts discernable from the pleadings and submissions, in brief, are as follows:

The subject lands are acquired under R & R (Resettlement & Rehabilitation) package. The petitioner on one hand and the respondents 4 & 5 on the other are the rival claimants for the compensation that is payable in respect of the subject acquired land. Be that as it may. The Special Deputy Collector, Tribal Welfare, K.R. Puram, passed ejectment orders, dated 09.05.2006, in SR.Nos.11 of 2006 & 12 of 2006 respectively against the 4th

respondent and the father of the 5th respondent in the writ petition. Aggrieved thereof, respondent no.4 & the father of the 5th respondent respectively preferred SR.A.No.2/10/F2 and SRA.No.1/10/F2 before the Agent to the Government and District Collector, West Godavari District, Eluru. The said Agent to the Government & District Collector, by his orders, dated 18.04.2015, allowed the said appeals and set aside the orders of the Spl.Dy.Collector passed respectively in the above said SR.Nos.12 & 11 of 2006. Aggrieved thereof, the writ petitioner preferred two revisions before the 2nd respondent herein. Complaining that the said respondent is not disposing of the said two revisions, the writ petitioner filed WP.No.24161 of 2016, under Article 226 of the Constitution of India, before this Court, requesting to issue a writ or order or direction in the nature of Writ of Mandamus declaring the action of the 1st respondent therein in taking steps to pay compensation to respondents 4 & 5 without disposing of the said revision petitions filed by the petitioner against respondents 4 & 5 herein, as illegal and arbitrary. In the said writ petition, a consequential direction to the respondents 1 to 3 not to pay the compensation to the respondents 4 & 5 till the disposal of the revision petitions was also sought. This Court, by order dated 21.07.2016, disposed of the said writ petition directing the 1st respondent therein to dispose of the revision petitions filed by the writ petitioner before him within six weeks from the date of receipt of a copy of the said order, however, after hearing the petitioner as well as the respondents 4 & 5. However, the said revisions are not yet disposed of by the 2nd respondent herein and are still pending.

4. In the above stated backdrop of facts and events, the writ petitioner filed the present writ petition, *inter alia*, stating as follows: 'After the orders were

passed in the earlier writ petition, the petitioner got issued a notice requesting to dispose of the two revisions as per the directions of this Court in the said writ petition. But, the 2nd respondent has not disposed of the said two revisions and ignored and deliberately violated this Court's order. The petitioner again issued legal notice to 3rd respondent, who is the concerned officer, requesting not to pay compensation to respondents 4 & 5. However, no enquiry was conducted. In the facts and circumstances of the case, the action of the respondents 1 to 3 in not conducting enquiry and getting ready to pay the compensation to respondents 4 & 5 is illegal and arbitrary.'

5. Learned counsel for the petitioner while reiterating the events and the case of the writ petitioner submitted that if a direction is given to the respondents 1 to 3 not to pay the compensation to the respondents 4 & 5 till the revision petitions filed by the petitioner are disposed of by the 2nd respondent, the ends of justice would be met.

6. However, learned counsel for the respondents 4 & 5 strongly opposed for granting any order to the writ petitioner, *inter alia*, contending as follows: 'The above said earlier writ petition is also filed seeking exactly the same relief. This Court only granted a direction to the 1st respondent therein to dispose of the revisions filed by the petitioner before him within six weeks; but, did not grant any directions to the respondents 1 to 3 not to pay the compensation to respondents 4 & 5 till the disposal of the revision petitions though such a relief was also claimed in the said earlier writ petition. In the pending revision petitions, the writ petitioner ought to have filed applications requesting to grant orders of stay and ought to have requested the 2nd respondent herein to dispose of the said applications pending disposal of the revision petitions; however, he

did not do so. In the alternative he ought to have requested for disposal of the revision petitions within six weeks time as directed in the orders of this Court in WP.No.24161 of 2016. Further, for non disposal of the revisions by the 2nd respondent herein within the timeframe fixed by this Court, the writ petitioner ought to have filed a petition for contempt against the 2nd respondent. Without following any of the courses available under law, the petitioner is not entitled to file the present second writ petition and make a request to grant the same reliefs, particularly the relief with regard to non payment of compensation to respondents 4 & 5 till the disposal of the revision petitions, regardless of the fact that such a relief though claimed in the earlier writ petition was not granted to the petitioner by this Court. This present second writ petition is filed and an interim order was obtained, suppressing the fact that earlier the above said writ petition was filed for the same relief and that while disposing of the said writ petition this Court has not granted a part of the relief sought for viz., 'not to pay compensation to respondents 4 & 5 till the disposal of the revision petitions by the 1st respondent therein'. Thus, the present writ petitioner played fraud on the Court. Therefore, the writ petition is liable for dismissal.'

7. Learned counsel for the petitioner, in reply, submitted as under: -
 'Though in the earlier writ petition a consequential direction not to pay compensation to respondents 4 & 5 till the disposal of the revision petitions by the 1st respondent therein is also sought; yet, this Court disposed of the said writ petition directing the 1st respondent therein to dispose of the revisions filed by the petitioner before him within six weeks from the date of receipt of copy of the order; but, did not dismiss the writ petition insofar as the other part viz., direction to respondents 1 to 3 not to pay compensation to the

respondents 4 & 5 till disposal of the revision petitions. The earlier writ petition was simply disposed of with the hope that the 2nd respondent would dispose of the revision petitions within the six weeks time, as directed by this Court. Be that as it may. Had he disposed of the revisions as directed in the orders of this Court, this petitioner would not have had a reason to complain. In any view of the matter, the respondents 4 & 5 cannot rely upon technicalities. For the fault of the 2nd respondent this petitioner cannot be put to hardship and the official respondents cannot act in a manner prejudicial to the interests of the petitioner though the petitioner is not at fault. If the official respondents pay away the compensation and the respondents 4 and 5 take away the same during the pendency of the revision petitions and in the event the writ petitioner eventually succeeds in the revisions pending before the 2nd respondent herein, it would be impossible for him to recover the compensation amounts from the respondents 4 & 5. Therefore, it is in the interests of justice to direct the respondents 1 to 3 not to pay the compensation amount to either of the parties pending disposal of the petitioner's revision petitions by the 2nd respondent.

8. I have given earnest consideration to the facts and submissions.

9. Admittedly, the revisions filed by the petitioner before the 2nd respondent, on 25.06.2015, are pending and the said revisions are not disposed of by the 2nd respondent despite orders of this Court to dispose of the same within six weeks from the date of receipt of the order, dated 21.07.2016, in WP.No.24161 of 2016. As rightly contended, this Court while disposing the said writ petition directed the 1st respondent therein to dispose of the revisions pending before him; but, did not dismiss the writ petition insofar as the

direction sought to the respondents 1 to 3 not to pay compensation to respondents 4 & 5 till the disposal of the revision petitions. However, within six weeks time granted by this Court in the afore-stated order, the 2nd respondent herein has not disposed of the revision petitions of the petitioner. Yet, according to the petitioner, an attempt is being made to pay the compensation to the respondents 4 & 5 when the matter is sub-judice and has not attained finality. Moreover, the Spl.Dy.Collector, TW-KR Puram passed order in the two SRs and the said orders are favourable to the writ petitioner. However, in the appeals, the Agent to the Government has set aside the said orders and allowed the appeals preferred by respondents 4 & 5. Therefore, there are no concurrent findings; and, a considered decision has to be taken by the 2nd respondent. Even though there is no order or direction from this Court, respondents 1 to 3 are not supposed to pay the compensation to either of the parties till the disposal of the revision petitions by the 2nd respondent and till the 2nd respondent determines finally the issue regarding the entitlement or otherwise of either of the parties to the compensation amount. Whenever there is a dispute of the present nature, it is advisable to resolve the pending dispute before the amount of compensation is released by the authority concerned. In the case on hand the matter is already before the revisional authority and the said authority is obligated to dispose of the revision petitions keeping in view the order of this Court in the earlier writ petition. Hence, there is no likelihood of delay in the disposal of the revision petitions. Therefore, in the considered view, this Court, which exercises equity jurisdiction, is not precluded from granting an order sought for by the petitioner notwithstanding the contentions of the respondents 4 & 5, as giving direction as sought for by

the petitioner sub-serves the ends of justice and helps in avoiding future complications in the matter.

10. Accordingly, the Writ Petition is allowed and the respondents 1 to 3 are directed not to pay the compensation to either the writ petitioner or the respondents 4 & 5 till the disposal of the revision petitions by the petitioner, which are pending adjudication before the 2nd respondent. Having regard to the facts & circumstances, this Court is hopeful that the 2nd respondent would at-least dispose of the revisions filed by the petitioner as expeditiously as possible, however, after giving an opportunity of hearing to the petitioner as well as the respondents 4 & 5.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.



M.SEETHARAMA MURTI, J

11.07.2018
Vjl