

HIGH COURT FOR THE STATE OF TELANGANA

MAIN CASE No: **W.P.No.13853 of 2010**

PROCEEDING SHEET

S. No	DATE	ORDER	OFFICE NOTE
	10.04.2023	<u>HCJ & NTR, J</u> <u>Review I.A.No.1 of 2023</u> Heard Mr. Y.Rama Rao, learned counsel for the review petitioner. This application is filed for reviewing the order dated 01.10.2018 passed by a Division Bench of this Court allowing the writ petition being W.P.No.13853 of 2010 ironically filed by the writ petitioner himself. For convenience sake, order dated 01.10.2018 is extracted in its entirety: The petitioner, whose land in Survey Nos.107/2 and 107/3, totally admeasuring to Acs.14.35 guntas in Upparlakesram Village, Kamanpur Revenue Madnal, Karimnagar District, was acquired in terms of a notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') approved by the Government on 15.07.2002, and in respect of which an award was passed in Award No.2/2004 dated 18.08.2004, has come up with the above writ petition challenging a subsequent award in Award No.3 of 2004 dated 15.12.2004 purportedly passed for the rectification of a mistake that occurred in the previous award. 2. Heard Mr. Y. Rama Rao, learned counsel for the petitioner, learned Government Pleader for	

		Land Acquisition for respondents 1 and 2 and Mr. J. Sreenivasa Rao, learned counsel for the 3rd respondent. 3. The facts are not in dispute. The draft notification under Section 4(1) of the Act submitted by the Collector on 23.07.2001 was approved by the Government under G.O.Rt.No.163 dated 15.07.2002. The draft declaration under Section 6 of the Act was approved by the Government on 17.07.2002. The last date of publication of the draft notification under Section 4(1) of the Act and the draft declaration under Section 6 of the Act were respectively on 05.08.2002 and 29.09.2002. 4. After enquiry, an award was passed in Award No.2/2004 dated 18.08.2004, not only in respect of the lands belonging to the petitioner totally measuring about Acs.14.35 guntas in Sy.No.107/2 and 107/3, but also in respect of another piece of land in Sy. Nos.107/4, 5, 6 and 7. By this Award, the Land Acquisition Officer fixed the compensation at Rs.60,000/- per acre. He also valued the wells at Rs.2,30,192/- and the trees at Rs.47,997/-. It appears that the petitioner protested leading to a reference being made under Section 18 of the Act. 5. But, in the meantime, the Land Acquisition Officer passed another Award in Award No.3 of 2004 dated 15.12.2004, on the specious plea that	
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		the date on which the original award was passed was actually 31.08.2004 and that the same was wrongly typed as 18.08.2004. Therefore, the second Award was passed purportedly in exercise of the power of rectification available under Section 13 (A) of the Act. 6. But, what the Land Acquisition Officer failed to notice was that if the date of pronouncement of the Award alone was the mistake committed, the rectification should be confined only to the correction of date of pronouncement of the Award. But, he went overboard and passed a suicidal award canceling the first award dated 18.08.2004 and proceeding to pass a fresh award in respect of the land of an extent of Acs.14.35 guntas alone. It is this award that is under challenge at the instance of the land owner, in this writ petition. 7. Fortunately, for the beneficiary, the petitioner has not taken advantage of the mistake committed by the Land Acquisition Officer and seeking a declaration that the entire proceedings pursuant to the notification under Section 4 (1) of the Act are void. The petitioner has confined his challenge only to the validity of the second award. 8. There is no doubt in our mind that the second award is clearly illegal. The moment an award is passed, the Land Acquisition Officer becomes <i>functus officio</i>. If at all, there can be a rectification in terms of Section 13A of the Act, the same can	
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		be confined only to the correction of clerical errors. The only typographical mistake which triggered the second award was the date of pronouncement of the first award. Therefore, the Land Acquisition Officer should have confined himself to the correction of the date alone. 9. In any case, the question as to whether the second award is nonest or illegal, is merely one of academic importance, since the value adopted for the land remained the same at Rs.60,000/- per acre even in the second award. But, the value of the wells and the value of the trees have undergone a change perhaps due to the fact that the total extent of land covered by the first Award was different from the total extent of land covered by the second award. Therefore, the second award deserves to be set aside. 10. Accordingly, the writ petition is allowed and the impugned Award is set aside, without prejudice to both parties to agitate all the rights in the appeals filed under Section 54 of the Act arising out of the judgment of the Reference Court. The original Award dated 18.08.2004, shall stand restored. Review has been sought on the ground that the entire land acquisition proceedings were not in consonance with the Land Acquisition Act, 1894 and therefore, the entire proceedings should be declared as null and void.	
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We are unable to appreciate the contention of the review petitioner inasmuch as in the writ petition filed, the challenge was specifically to the second award *i.e.*, award No.3 of 2004 dated 15.12.2004 and this was set aside by the Division Bench by a detailed order dated 01.10.2018.

We find that after filing of the review petition, the review petition has been listed today on being mentioned by learned counsel for the review petitioner. When the matter is called upon for hearing, he seeks adjournment.

After going through the order sought to be reviewed and the grounds of review, we are of the considered opinion that present is not a fit case for exercise of our review jurisdiction. There is neither any error apparent on the face of the record nor any other justifiable reason to take a view different from the one taken by the Division Bench.

Review Petition is devoid of any merit and is accordingly dismissed.

Review I.A.No.1 of 2019

In view of the detailed order passed in Review I.A.No.1 of 2023, no separate order need be passed in this application.

This application is dismissed.

HC J

NTR, J

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