

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

WRIT PETITION NO.39164 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a writ of Mandamus declaring the action of the respondent Nos.1 to 3 in disbursing the compensation in favour of respondent No.4, without considering the petitioner's representation dated 26.12.2015 and legal notice dated 16.6.2016, as illegal and arbitrary.

2. Heard the learned counsel for the petitioner, learned Government Pleader for Land Acquisition representing respondent Nos.1 to 3 and learned counsel for respondent No.4.

3. The petitioner and respondent No.4 are sons of late G.Satyanarayana. The said Satyanarayana owned an extent of Ac.1.00 of land in survey No.80/1 of P.Narayanapuram, Jeelugumilli Mandal, West Godavari District. The third respondent acquired the land of the petitioner's family, for the purpose of Excavation of the Canal. It is the case of the petitioner that himself and his three brothers including the fourth respondent are entitled to the awarded amount equally being the sons of late Satyanarayana. It is the case of the fourth respondent that the property in question exclusively belongs to him; therefore, except himself none of his brothers are entitled to the awarded amount. The petitioner submitted representation dated 26.12.2015 to the third respondent claiming 1/4th share in the awarded amount. It is not in dispute that the third respondent passed the Award on 13.10.2015 acquiring the subject property.

4. The learned counsel for the fourth respondent strenuously submitted that after passing of the Award, the third respondent has no

right whatsoever to decide the dispute between the petitioner and fourth respondent. The learned counsel for the petitioner submitted the third respondent is the competent Authority to decide the dispute between the parties in view of Section 23 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, the Act). It is not out of place to extract hereunder the relevant portion of Section 23 of the Act.

23. Enquiry and land acquisition award by Collector.- On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 21, to the measurements made under section 20, and into the value of the land at the date of the publication of the notification, and into the respective interests of the persons claiming the compensation and rehabilitation and resettlement, shall make an award under his hand of –

(a) ...

(b) ...

(c) the apportionment of the said compensation among all the persons known or believed to be interested in the land, or whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

5. Having regard to the facts and circumstances of the case and also clause (c) of Section 23 of the Act, I am of the considered view that the third respondent is the competent Authority to decide the dispute between the petitioner and the fourth respondent. Therefore, this Court is not inclined to express any opinion touching the merits of the main case.

6. Accordingly, the writ petition is disposed of, directing the third respondent to dispose of the representation of the petitioner dated 26.12.2015 in the light of Clause (c) of Section 23 of the Act, as expeditiously as possible. Miscellaneous petitions if any pending in this writ petition shall stand closed.

T.Sunil Chowdary, J

27.4.2018
YS