

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT
WRIT APPEAL No.1248 OF 2018

JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Respondent No.3 in W.P. No.2394 of 2018 is the appellant. The W.A. is directed against the order dated 13.08.2018 in W.P. No.2394 of 2018. The 1st respondent herein filed W.P. No.2394 of 2018 for Mandamus directing the Revenue Divisional Officer/ respondent No.3 herein to deposit compensation amount payable under Award No.9/2012 dated 14.06.2013 for Item No.76 therein in the light of order dated 04.07.2014 to the credit of learned Senior Civil Judge's Court, Avanigadda.

The circumstances are not in dispute, and for disposing of the W.A., we refer to the following admitted circumstances:

An extent 202 square metres in R.S.No.668/9A2 was acquired for widening National Highway No.9 from K.M. 0/0 to K.M. 64/5 of Vijayawada-Machilipatnam Section in Nidumolu Village of Movva Mandal. The appellant and the 1st respondent have presented rival claims for compensation. The 3rd respondent passed Award No.9 of 2012 dated 14.06.2013 determining the compensation payable as Rs.15,18,326/- and having regard to rival claims of the appellant and the 1st respondent herein, directed the amount to be deposited in the Court of Principal Senior Civil Judge,

Machilipatnam under Section 3 H (4) of the National Highways Act, 1956. The appellant filed W.P. No.13879 of 2014 claiming payment of compensation without apportionment. In other words, the appellant challenged the direction of 3rd respondent to deposit the compensation amount before the Principal Senior Civil Judge, Machilipatnam as illegal. Thereafter, the 3rd respondent issued proceedings dated 18.10.2017 directing payment in favour of the appellant. Under these circumstances, the complaint of 1st respondent is that the 3rd respondent cannot and could not have reviewed the direction issued in Award dated 14.06.2013. For all purposes, the 3rd respondent becomes *functus officio*. Therefore, the direction to pay compensation to the appellant is illegal and without jurisdiction. The contesting respondents as well as the official respondents did not dispute any of the circumstances referred to above. Under these circumstances, the following finding is recorded by the order under appeal:

“It is shocking that after taking a view while passing of the Award dt.14.06.2013 that the amount of compensation for the subject land would be deposited in the Civil Court, the 2nd respondent made a volte face and made the payment of the same on 18.10.2017 to the 3rd respondent ignoring his own order dt.04.07.2014 to deposit in Court.

It is not disputed by either the counsel for 3rd respondent or the Government Pleader for Land Acquisition that the Land Acquisition Officer has no power to review his own order and change his mind as to entitlement of a party to receive compensation after once having decided that there is a dispute about title and the matter requires to be referred to the Civil Court. The only inference from this conduct of the 2nd respondent is that

the 3rd respondent successfully managed him and got the payment made to himself.

Accordingly, the Writ Petition is allowed. The 2nd respondent and the District Collector, Krishna are directed to recover the said amount of Rs.15,18,326/- paid by 2nd respondent to 3rd respondent, within four (04) weeks from the date of receipt of copy of this order, if necessary, by initiating proceedings under the Andhra Pradesh Revenue Recovery Act, 1864 against the 3rd respondent. Necessary disciplinary action shall also be initiated by the District Collector, Krishna against the Officer who worked as Revenue Divisional Officer as on 18.10.2017, and who affected payment of the above sum to 3rd respondent."

The appellant could not point out an illegality or a patent infirmity in the order under appeal. The crux of the controversy is whether the 3rd respondent after passing the award and directing to deposit compensation in civil Court can review his own order. The answer would be 'no'. The order under appeal is on the same lines. After perusing the record, we are also of the same view, as is taken by the learned Single Judge in the order under appeal. For the reasons recorded in the order under appeal and by expressing agreement with the very same reasons, the appeal is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

Date:25-09-2018
Sp