

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.42628 of 2016

ORDER :

Heard the counsel for petitioner, the learned Government Pleader for Irrigation for respondent nos.1 and 2, and the learned Government Pleader for Revenue, for respondent nos.3 to 5.

2. The petitioner's case is that petitioner inherited an extent of Acs.150.00 cents situate in Sy.No.248 of Rebbana Vilage from his father, who purchased the same along with other lands under a registered sale deed No.44/1978, dt.31.12.1977; that his name was mutated in the Revenue Records and he was also issued pattadar pass book and title deed on 21.10.2008 by the Tahsildar, Bheemini Mandal; that without acquiring the petitioner's lands the respondents started utilizing it for construction of Palamadugu Project in Rebbana Village.

3. He contends that no action has been taken to either initiate land acquisition proceedings or to pay fair compensation to petitioner. He relied upon (i) the proceedings dt.25.06.2015 vide Lr.No.G1/3629/2014 of the Office of the Collector, addressed to the Executive Engineer, I & CADD IB Division, Mancherial asking the latter to conduct inspection and inform whether his lands are given under acquisition for construction of Palamadugu Tank in Rebbana Village or not, and also inform whether the requisition proposals had been submitted to the Land Acquisition Office / Sub-Collector,

Asifabad or not, and also (ii) proceedings dt.27.07.2015 of the Office of the Tahsildar, Bheemini addressed to the Sub-Collector, Asifabad which indicated that in proceedings No.A/938/2009, dt.29.07.2009, there was a supplementary sethwar recognizing the petitioner's patta for the said extent, and further stating that a major portion of the petitioner's land has been submerged by the said project, and directing that a survey be done to identify the extent of submergence of the petitioner's land.

4. Counter-affidavit has been filed by respondent nos.3 to 5 without adverting to the above proceedings but stating that certain proposals were made for the Palamadugu Project. It is stated that there is other land in Survey No.248 which is Government land, that petitioner's land is not acquired, and that was why no process was taken under the Land Acquisition Act, 1894 for acquiring petitioner's land.

5. This Counter-affidavit filed by the Revenue Divisional Officer, Bellampalli, makes no reference to the proceedings dt.25.06.2015 vide Lr.No.G1/3629/2014 of the Office of the Collector, addressed to the Executive Engineer, I & CADD IB Division, Mancheri, as well as proceedings dt.27.07.2015 of the Office of the Tahsildar, Bheemini addressed to the Sub-Collector, Asifabad which contain admission of submergence of the petitioner's land for the said project. So the plea raised therein that the petitioner's land is not at all utilised, therefore, does not have any merit.

6. It is important to note that this Court on 27.12.2016, at the request of respondents, directed a Survey to be done and asked them to file a report.

7. However, in spite of a direction by this Court on 03.08.2018 to produce copy of the said survey report, it has not been produced.

8. It is unfortunate that respondents have shown no regard either to petitioner, who has lost his land or to the Court by complying with its direction. It is obvious that respondents feel that if they conduct any survey it would support the case of petitioner and have, therefore, deliberately decided not to conduct any survey pursuant to order of this Court on 27.12.2016 till date.

9. In this view of the matter, the Court has no option but to come to the conclusion that the entire land admeasuring Acs.57.67 cents of petitioner in Survey No.248 of Rebbana Vilage, Kannepally Mandal, Mancherial District has been utilized for the Palamadugu Irrigation Project, and that respondents have acted arbitrarily, irrationally and in violation of Articles 14 and 300-A of the Constitution of India by depriving petitioner of the said land without paying any compensation therefor.

10. Therefore, the 1st respondent is directed to forthwith initiate proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (also Land Acquisition Act, 2013) for acquisition of the said extent of land

within four (04) weeks from today, and ensure payment of compensation under the said Act to petitioner for the said extent of land without fail within a period of three (03) months from the date of receipt of copy of the order. The Writ Petition is allowed accordingly.

11. The 1st respondent shall also pay costs of Rs.25,000/- to petitioner within four (04) weeks.

12. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10.08.2018

Ndr/*

