

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.43292 of 2016

ORDER:

Petitioner challenges the award passed by respondent No.4 – Land Acquisition Officer, Nizamabad. He seeks a direction to pass award in terms of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act').

Petitioner claims that an extent of Ac.14.06 gts. in Sy.Nos.56, 57, 61, 62 and 63, Abbapur Village, Navipet Mandal, Nizamabad District, was acquired for Yerrakunta Reservoir. Notification was issued invoking the provisions of Land Acquisition Act, 1894. Thereafter, award came to be passed on 21.04.2016. While Sy.Nos.56 and 57 are Wet Double Crop lands, stone crusher unit was established in Sy.No.62 upto ½ acre and Sy.Nos.61 and 63 are dry lands. The Land Acquisition Officer, vide his report dated 08.07.2015, valued at the rate of Rs.19,84,000/- per acre (taking its potentiality) apart from statutory benefits viz. solatium and additional market value etc. However, the Land Acquisition Officer, surprisingly, took the land value at Rs.85,000/- per acre and separately valued the machinery and other structures for a sum of Rs.1,32,43,621/-. Though the entire land was an industrial

land, as has been admitted by the respondents in awarding compensation for the machinery separately, part of the land falling within Sy.Nos.61 and 63 was treated as industrial land, and the remaining as agricultural land; and the initial valuation made by the Land Acquisition Officer, in his report dated 08.07.2017, was ignored.

In the counter affidavit filed by respondent No.4, it is stated that petitioner's lands in Abbapur Village, Navipet Mandal, Nizamabad District were inspected and noticed that the said lands were used for agriculture purpose only; one stone crusher (Defunct) was installed in Sy.No.62 upto $\frac{1}{2}$ an acre; earlier consent award was passed in respect of certain lands which were not similar to the subject lands as those lands were cultivated under Nizam Sagar Project which were more fertile and nearer to the Village and road; and while the petitioner's lands were situate at tail end of the village and 2 Km away to Abbapur Village and adjacent to Reserved Forest Area and Errakunta Tank, there is no road connectivity to these lands. It is further stated that Sy.Nos.56 and 57 are Wet Double Crop lands and Sy.No.62 is rocky having crusher unit situated upto $\frac{1}{2}$ acre and Sy.Nos.61 and 63 are dry lands, that dry and wet lands are being sold at Rs.75,000/- to Rs.2.00 lakh per acre and P.V. proposals were prepared for an extent of Ac.14.06 gts. for a total value of Rs.2,92,23,492/-, including the value of

structures at Rs.2,98,426/- per acre. Objection is also raised with respect to maintainability of the writ petition. It is further asserted that the petitioner has an effective alternative remedy of seeking reference to the competent authority in terms of Section 77 of 2013 Act as the compensation has been determined in terms of Section 24(2) of 2013 Act.

Having considered the respective submissions, and considering the fact that award has been made, and there being no violation of principles of natural justice and there being no compelling reasons, this Court is not inclined to allow the writ petition. Even assuming for argument sake that an error has been committed by the Land Acquisition Officer in estimating the value of land or property which is under acquisition and, to meet such contingency, the legislature, in their wisdom, has provided the mechanism adequate and suitable mechanism in terms of Section 64 of the 2013 Act which was earlier Section 18 reference and adjudication by the 'Authority' constituted under Section 59 of the Act. The 'Authority' shall consider and determine the compensation payable in terms of Section 73 of 2013 Act. It is the judicial forum which is required to consider the valuation and, more particularly, the valuation depends on the material evidence that may be produced before the 'Authority'. Petitioner would be entitled to establish the

market value as estimated and awarded by the Land Acquisition Officer and that the Land Acquisition Officer has not awarded just compensation. It may also be noted that petitioner would be entitled to other statutory benefits, particularly, interest component. Even assuming that determination of compensation would take some time, petitioner would suffer no real loss.

In the circumstances, considering the fact that the petitioner had already made an application on 28.07.2016, which was received on 15.09.2016, invoking Section 64 of 2013 Act seeking reference which is admittedly pending, the Land Acquisition Officer shall take necessary steps to make a reference to the competent authority, constituted under Section 59 of 2013 Act. As the petitioner was prosecuting the writ petition under *bona fide* belief, and the same shall be dealt with, in accordance with law, in an expeditious manner.

The Writ Petition is, accordingly, disposed of. Miscellaneous petitions pending, if any, in the writ petition shall stand closed. No order as to costs.

CHALLA KODANDA RAM,J

Date: 23.01.2018
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