

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V. BHATT**

WRIT APPEAL No.1447 OF 2018

JUDGMENT: (Per The Hon'ble The Chief Justice Sri Thottathil B. Radhakrishnan)

We have heard the learned counsel for the appellant and the learned Government Pleader for Revenue for Respondent Nos. 2 to 4 and the learned Government Pleader for Land Acquisition for Respondent Nos. 1, 5 to 7.

2. In 2017, the appellant instituted the writ petition, from which this appeal arises, alleging that the property belonging to him was taken over by the Government sometime in 2007, on the premise that it is liable to be resumed; however that, he was not paid any compensation for wrongful deprivation of property. The writ petition was allowed directing the official respondents therein to restore the land of the petitioner or alternatively, to determine compensation at market value of that land as on 12.06.2007 in accordance with the provisions of the Land Acquisition Act, 1894, hereinafter referred to as “the 1894 Act”, and the decision of the Larger Bench of this Court in **LAO-cum-Revenue Divisional Officer, Chevella Division, Domalaguda, Hyderabad v. Mekala Pandu**¹. The petitioner filed an application for review of that Order pleading that there were certain typographical errors and also that the eligibility of the petitioner was for compensation in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013; hereinafter referred to as “the 2013 Act”, and not under the 1894 Act. That application for review was allowed in part

¹ 2014 (2) ALD 451 (LB)

rectifying the clerical and typographical errors. The plea of the petitioner in the review petition that to determine the compensation due to him should be under the 2013 Act was rejected. Hence, this Appeal.

3. Learned counsel for the appellant-writ petitioner argued that the appellant is entitled to compensation to be paid in terms of the 2013 Act and not under the 1894 Act.

4. Being an intra-Court appeal arising from a Writ Petition instituted invoking the extraordinary discretionary jurisdiction under Article 226 of the Constitution of India, we cannot be bound down by technicalities when the pursuit in this jurisdiction will essentially be to find out whether injustice has been caused to the appellant or whether the scales of justice has been equitably balanced.

5. With this in mind, we notice that while the learned Single Judge, through order in the Writ Petition issued on 30.7.2018 held that there was no material with the official respondents to show that there was a valid resumption order on 12.6.2007, the counter-affidavit of the 7th respondent, who is the Divisional Forest Officer, Kadapa, contained the specific pleading and assertion that the Forest Department was put in possession of the land in question on 1.5.2008 under panchanama for protection of “**Kalvikodi**”, an endangered species. Though he also could not produce the so-called resumption order dated 12.6.2007, the plea in the 7th respondent’s counter-affidavit and the panchanama that was relied on by the 7th respondent in opposition to the Writ Petition, was not impeached by subsequent pleadings by the appellant-writ petitioner. Therefore, for all intents and purposes, we have to take it that, on the basis of the materials on record, including affidavits, the petitioner is proved to have been dispossessed at least on 1.5.2008. Going by the

un-controverted averment in the 7th respondent's counter affidavit and the material particulars, the fact remains that the Forest Department took possession of the property under panchanama dated 1.5.2008. In that view of the matter, we do not find that any injustice has been caused through the judgment rendered by the learned Single Judge in the Writ Petition, instituted nearly around a decade after such dispossession.

6. Faced with the aforesaid situation, learned counsel for the appellant-writ petitioner, tried to explain the delay of nearly ten years in instituting the Writ Petition by saying that the petitioner was making repeated representations to different authorities. Representations seeking relief under particular statutory provision or non-statutory schemes, cannot be something on which a party can cling on, if he had chosen the path of an indefinite wait rather than move appropriate Courts including seeking remedial measures in terms of the Laws. We are not oblivious of the fact that a large number of Writ Petitions are placed even before this High Court invoking the writ jurisdiction seeking issuance of writs, directions and orders, including in the nature of writ of mandamus, seeking directions to consider representations. Such Writ Petitions are even instituted at the mere drop of the hat. Therefore, it will be too late in the day for us to assume that a litigant waited for a decade to move the competent Court for requisite compensation, which he asserts was due.

7. On the basis of the materials on record, it is evident that the possession of the land in question was with the Forest Department at least from 1.5.2008 when the panchanama was drawn up and property was brought to be in the possession with the Forest Department for the purpose of protection of an endangered species.

The 2013 Act came into force long thereafter. By no stretch of imagination, can the appellant-writ petitioner claim relief on the basis of the 2013 Act. The substance of this Writ Appeal, therefore, fails.

8. In the result, this Writ Appeal is dismissed.

9. As a sequel thereto, miscellaneous applications, if any, pending in the Writ Appeal shall also stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

1st November, 2018.

Pnb

S.V. BHATT, J

