

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.42394 of 2017

ORDER :

Heard the counsel for petitioners, the learned Government Pleader for Land Acquisition for respondent nos.1 to 4, and Sri P. Vishnuvardhan Reddy, counsel for respondent nos.5 to 10.

2. The petitioners' grievance is that land admeasuring Acs.16.27 guntas situate in Survey No.194-A of Mannevaripalle Village, Achampet Mandal, Nagar Kurnool District has been acquired by the respondents through a notification published on 31.05.2017 for the purpose of 'Dindi Balancing Reservoir'.

3. The petitioners claim compensation for the above extent of land, claiming that it is ancestral property.

4. Respondent nos.5 to 10 also claim title to the said property.

5. The counsel for petitioners contend that in view of the title dispute between the parties in respect of ownership to the said land which has been acquired by the respondents, the only option available to respondents is to refer the dispute as to apportionment of compensation under Section 76 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 to the Land Acquisition, Rehabilitation and Resettlement Authority constituted under Section 51 of the Act; and the 3rd respondent has no jurisdiction to adjudicate the said dispute.

6. Though respondent nos.1 to 4 sought to take a plea that petitioners have no right over the property and respondent nos.5 to 10 alone have the right to claim compensation therein, admittedly payment of compensation has not been made to respondent nos.5 to 10 till date.

7. The stand of respondent nos.5 to 10 that the Land Acquisition Officer alone should decide disputes as to apportionment of compensation is not tenable in view of Section 76 which mandates that any dispute which arises as to apportionment should be determined by the Authority referred to above, on a reference being made by the District Collector to the said Authority.

8. The stand taken in the counter-affidavit filed by respondent nos.1 to 4 that only respondent nos.5 to 10 have title to the property also cannot be accepted, since it is not permitted for the 3rd respondent to express any opinion about the title to property when there is a dispute about the title to property raised before him and he is obligated to make a reference to the Authority, referred to above, for decision in that regard.

9. Accordingly, the Writ Petition is allowed. The respondent nos.2 and 3 are directed to make a reference to the dispute between petitioners and respondent nos.5 to 10 to the Land Acquisition, Rehabilitation and Resettlement Authority under Section 64 read with Sections 76 and 77 of the Act, and the amount determined as

compensation shall be deposited with the said Authority, and shall not be paid by respondent nos.1 to 4 to either the petitioners or respondent nos.5 to 10. No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 12.06.2018

Ndr/*

