

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.17523 & 17524 of 2008

Dated :17.06.2019

W.P.No.17523 of 2008

Between:

Wadla Narahari
Petitioner

..

And

The Land Acquisition Officer-cum-
the Revenue Divisional Officer, Adilabad
and another

..

Respondents



THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.17523 & 17524 of 2008

COMMON ORDER :

In both these Writ Petitions, the petitioners are the persons whose lands were acquired under the Land Acquisition Act, 1894 (for short, 'the Act'). Awards were passed determining compensation payable to the lands acquired. There was an *inter se* dispute on the claim/apportionment of the compensation awarded by the land acquisition officer necessitating reference under Sections 30 and 31 of the Act and the matter was referred to the Civil Court in O.P.No.10 of 2000. The decision was rendered by the learned Senior Civil Judge, Adilabad on 19.07.2004, resolving the issue of claim/apportionment of compensation. After the compensation was paid to them, applications dated 01.08.2005 and 06.09.2005 were filed by the petitioners seeking reference for enhancement of compensation, under Section 18 of the Act. The request of the petitioners to refer the matter for enhancement of compensation was not accepted by the Land Acquisition Officer. Hence, these Writ Petitions are filed.

2. Heard both sides.

3. Learned counsel for the petitioners sought to contend that until the decision was made by the reference Court in O.P.No.10 of 2000 on 19.07.2004, the petitioners had no knowledge about the award passed and therefore they could not take immediate steps. He would further submit that until the amount of compensation was paid, the petitioners did not know what was the compensation determined and hence only after payment of compensation, they made applications for enhancement of compensation. He, therefore,

sought to contend that the applications made by the petitioners in both the Writ Petitions on 01.08.2005 and 06.09.2005 respectively were within the time limit and not considering the said applications is erroneous. In support of the contention, learned counsel for the petitioners placed reliance on the full Bench Judgment of this Court in ***Special Deputy Collector, L.A. Unit, Singareni Collieries Co., Limited, Godavarikhani v Dasari Ramulu and others***¹.

4. Learned Government Pleader for Land Acquisition contends that the rejection of the request of the petitioners was on the ground that the applications for reference was not made within six weeks from the date of the award. As they were made after a long lapse of time, reference claim is not valid.

5. The basic facts are not in dispute. The award was passed on 28.09.1999. Thereafter, reference was made to the Civil Court under Sections 30 and 31 of the Act, numbered as O.P.No.10 of 2000. The said O.P. was decided on 19.07.2004. The compensation was paid to both the Writ Petitioners on 14.07.2005 and 11.08.2005 respectively. Reference was sought on 01.08.2005 and 06.09.2005, respectively.

6. As per Section 18 of the Act if a person is not satisfied with the amount of compensation awarded by the Collector, he should seek reference to Court for determination for enhancement of compensation. Section 12(2) requires the Collector to serve notice of award if the parties are not present when the award was passed. Section 18 fixes time limit to seek enhancement within six weeks from the date of receipt of notice from the Collector under Section 12 (2) or six months from the date of the Collector's award, which ever

¹ (2000 (2) ALT 83 (F.B.)

period shall expire first. The fact that reference was made under Sections 30 and 31 of the Act and the resolution of the *inter se* dispute are not disputed. Therefore, the petitioners cannot plead that they were not aware of the award passed. Be that as it may, even if the date of passing of award is relevant for computation of limitation period, but such a request was not made immediately after the award. They waited till compensation was paid and then filed the applications seeking enhancement. Section 18 (2) (b) of the Act has two components, the first is with reference to computation of limitation from the date of service of notice and the second component is with reference to six months from the date of passing of award. As per this Section, even if notice is not given under Section 12 (2) of the Act, the period of limitation to seek enhancement would end six months after the award is passed. Even if six months period is calculated from 19.07.2004, the date of decision by Court as knowledge of award passed by Land Acquisition Officer, the claim was made by the petitioners after six months i.e., on 14.07.2005 and 11.08.2005. Thus, even this plea is not available to petitioners.

7. The Full Bench of this Court, while dealing with the issue as to whether notice under Section 30 of the Act would imply notice under Section 12(2) of the Act for the purpose of commencement of limitation under Section 18(2)(b) of the Act, held that Sections 18 and 30 of the Act operate in two different contingencies and therefore service of notice under Section 30 of the Act would not amount service of notice under Section 18 of the Act. Having regard to the peculiar facts of this case, the Full Bench judgment do not come to the aid of the petitioners. As claims of the petitioners for enhancement were made after long lapse of time, no case is made

out to direct the Land Acquisition Officer to refer the matter to the competent Civil Court for determination of proper market value under Section 18 of the Act.

8. Accordingly, these Writ Petitions are dismissed. There shall be no order as to costs.

9. Miscellaneous petitions, if any, pending in these Writ Petitions, shall stand closed.

Dt.17.06.2019.
vnb

P.NAVEEN RAO, J

