

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 32953 of 2018

ORDER:

Petitioner asserts that his land admeasuring Acs.5.08 guntas in Survey No.295/AA/2 situated at Guttagudem Village, H/o.Chapralapally Village, Mulakalapally Mandal, Bhandradri Kothagudem District came to be acquired for the purpose of Sitarama Lift Irrigation Project; that even before passing the Award, he filed objection petition on 08.01.2018 before the Land Acquisition Officer, which was rejected on 13.06.2018 with the observation that if the petitioner has any grievance, he should approach the appropriate authority; and that immediately thereafter, he approached this Court by filing this writ petition.

While admitting the writ petition on 27.09.2018, this Court passed an interim order directing respondent Nos.2 to 4 not to pay the compensation to respondent No.5.

Respondent No.3-Special Deputy Collector, Land Acquisition, Sitarama Lift Irrigation Project, filed a counter-affidavit stating that the claim of the petitioner came to be enquired into and based on the material placed by him as well as respondent No.5, the objection petition filed by the petitioner came to be rejected on 13.06.2018 as he has no claim over the subject property; that in pursuance of the interim order passed by this Court on 27.09.2018, the compensation has not been paid to respondent No.5 and the same was deposited

with the APGVP, Mulakalapally; and that an Award was passed on 18.06.2018 dealing with the objections of the petitioner.

Heard learned counsel for the petitioner and learned Government Pleader for Land Acquisition appearing for respondent Nos.1 to 4.

As can be seen from the facts of the present case, there are rival claims between the petitioner and respondent No.5 with respect to the compensation that is payable for the subject land, which was admittedly acquired for the purpose of Sitarama Lift Irrigation Project. In normal circumstances, any objection with regard to compensation, particularly in respect of an individual claim, is required to be enquired into in terms of Section 21 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act 30 of 2013') during the award enquiry. However, in the present case, there is no dispute that the objection petition filed by the petitioner came to be rejected on 13.06.2018 and thereafter, the petitioner did not appear to have approached the Land Acquisition Officer with respect to the said rejection, but filed this writ petition before this Court in the month of September, 2018. The petitioner did not state in the writ affidavit that the Award has already been passed, however, he prayed not to disburse the compensation with respect to the subject land which was acquired. Though the petitioner asserts that he was not aware of the passing of the Award, the fact that he sought stay of the payment of compensation leaves no manner of doubt that he

was in fact aware of the passing of the Award. At this point of time, probably, the said aspect is not relevant.

Unlike the Land Acquisition Act, 1894 (for short 'the Act'), where there were two provisions i.e. Sections 18 and 30 operating at different stages of land acquisition, particularly with respect to enquiry regarding payment of compensation and consideration of rival claims, Act 30 of 2013 had amalgamated and created a composite section i.e. Section 64 dealing with all aspects of the compensation amount by creating an authority. Under Section 18 of the Act, when there is an objection either with respect to enhancement of compensation or with regard to rival claims, the Collector was mandated to make a reference to the competent civil Court and now, in the place of civil Court, a competent authority is constituted in terms of Section 52 of Act 30 of 2013.

It may be noted that if a claim made during the award enquiry is not considered and an Award is passed refusing to consider the claim and such an Award is neither challenged nor a reference is sought by a rival claimant whose claim is rejected, the Award becomes final.

In the present case, the petitioner did not choose either to challenge the Award or approach the Collector seeking reference in terms of Section 76 of Act 30 of 2013 with respect to the award amount to be determined by the authority constituted under Section 52 of Act 30 of 2013. The petitioner appears to have been under the impression that filing an objection petition before the Land

Acquisition Officer itself would suffice, whereby the Land Acquisition Officer is prevented or is bound to make a reference in terms of Section 64 of Act 30 of 2013 and he has no right to determine the rival claims. While dealing with an identical situation, a Division Bench of this Court in **Govindu Venkata Reddy Vs. K.Krishna Rao**¹ held that if a claim is made during the award enquiry and the same came to be rejected, the Land Acquisition Officer is entitled to make a reference either to the civil Court or determine himself with respect to the rights and rival claims, thereby, making it clear that it is not mandatory in all cases wherever rival claims are made, the Land Acquisition Officer is precluded from determining the rights of the parties. If a party has any objection with respect to payment of compensation as determined by the Land Acquisition Officer, he shall make an application under Section 30 of the Act 1894 seeking reference to the civil Court. Similarly, in Act 30 of 2013, a reference is required to be made in terms of Section 76, on which application, the Collector is bound to make a reference to the competent authority. The law being so, in the present case, probably on account of the ignorance of the petitioner, he had not made an application to the Collector seeking reference to the competent authority. It may also be noted that such reference is required to be sought within six weeks from the date of the passing of the Award.

Both on account of the rival claims and also on account of the interim orders of this Court in the Writ Petition, compensation amount determined has not been paid to any of the parties.

¹ AIR 1982 AP 86

As the petitioner asserts that he is not aware of passing of the Award, in the facts of the case, this Court deems it appropriate to direct the Collector to make a reference to the competent authority, within a period of four weeks from the date of receipt of a copy of this order. Since the amount has not been paid to either of the parties, the compensation amount shall be deposited by the Land Acquisition Officer with the authority which may be paid subject to the outcome of the proceedings under Section 64 of the Act.

The writ petition is accordingly disposed of.

Miscellaneous petitions, if any, pending in this writ petition shall also stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:15.03.2019

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