

HIGH COURT FOR THE STATE OF TELANGANA

HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT APPEAL No.1228 of 2016

Date: 19.08.2019

Between:

Bommena Arjun

...Appellant

and

Gundla Thirupathi
and five others.

...Respondents

Counsel for the Appellant : Sri C.Tulasi Krishna

Counsel for Respondent 1 to 4 : Sri Ponnamm Ashok Goud

Counsel for respondents 5 & 6 : G.P for Land Acquisition

The Court made the following:

JUDGMENT: *(Per Hon'ble Dr.Justice Shameem Akther)*

This appeal, under Clause 15 of Letter Patent, is filed aggrieved by the order of this Court dated 12.08.2016 passed in W.P.No.27136 of 2016, wherein the learned Single Judge directed the official respondents to pay the compensation amount within four weeks from the date of receipt of a copy of that order.

2. The appellant herein is a third party to the litigation. This Court vide order dated 11.11.2016 in WAMP.No.1885 of 2016 granted leave to the appellant to file this appeal.

3. Heard Sri C.Tulasi Krishna, learned counsel for the appellant, Sri Ponnamm Ashok Goud, learned counsel for respondents 1 to 4, learned Government Pleader for Land Acquisition for respondents 5 and 6 and perused the record.

4. The facts that led to filing of this appeal are that the respondents 1 to 4/writ petitioners claim to be the absolute owners and possessors of houses bearing Nos.1-13, 1-14, 1-15, 1-15-A, 1-19, 2-27, 2-28, 8-16, 8-17, 8-33 and 8-34 situated at Kodurupaka village of Boinpalli Mandal, Karimnagar District. The subject house property of the respondents 1 to 4/writ petitioners was acquired for the purpose of Mid Manair Reservoir project as the subject house property was coming under submergence in construction of Mid Manair Reservoir. Subsequently, awards were passed in two spells, vide award No.90/2012-13, dated 30-03-2013 and Award No.93/2012-2013, dated 30.03.2013. The awards were passed in the year 2013. Since the respondents are postponing the payment of compensation on one reason or the other, the respondents 1 to 4/writ petitioners filed impugned

W.P.No.27136 of 2016 seeking a direction to the official respondents 5 and 6/writ respondents to pay compensation together with interest in pursuance of the awards dated 30.03.2013. The learned Single Judge by way of the impugned order, directed the official respondents 5 and 6/writ respondents to pay the compensation amount within four weeks from the date of receipt of a copy of that order. Aggrieved by the same, the present appeal is filed by the third party litigant.

5. Learned counsel for the appellant would contend that the appellant is a third party to the litigation and this Court vide order dated 11.11.2016 in WAMP.No.1885 of 2016 granted leave to the appellant to file this appeal. The appellant has substantial interest in the subject matter of the acquired house property. Therefore, the title and entitlement to the said compensation granted is required to be adjudicated by the competent civil Court. The impugned order is contrary to law and facts of the case. If the appellant is directed to file a separate suit to recover compensation amount, he would be put to irreparable loss and ultimately prayed to allow the appeal and set aside the impugned order.

6. On the other hand, learned counsel for the respondents have supported the impugned order and contended that a false interest has been set up by the appellant and ultimately prayed to sustain the impugned order and dismiss the appeal.

7. In view of the submissions made by both sides, the issue that arise for determination is as follows:

“Whether the impugned order dated 12.08.2016 passed in Writ Petition No.27136 of 2016 by the learned single Judge is liable to be set aside?”

8. It is not in dispute that the subject houses bearing No. 1-13, 1-14, 1-15, 1-15-A, 1-19, 2-27, 2-28, 8-16, 8-17, 8-33 and 8-34 situated at Kodurupaka village of Boinpalli Mandal, Karimnagar District were acquired by the Government as the said lands were coming under submergence in the construction of Mid Manair Reservoir and compensation was awarded by the Land Acquisition Officer vide awards dated 30.03.2013. Since the respondents 5 and 6/writ respondents have not paid the compensation awarded in spite of repeated requests, the respondents 1 to 4/writ petitioners filed W.P.No.27316 of 2016 seeking a direction to the official respondents 5 and 6/writ respondents to pay the compensation. The learned Single Judge vide order dated 12.08.2016 directed the official respondents to pay compensation to the unofficial respondents 1 to 4 herein, within a period of four weeks from the date of receipt of a copy the impugned order. The subject matter of the writ petition is with regard to payment of compensation amount.

9. In the course of submissions, it is brought to the notice of this Court that the appellant filed a suit for partition of the compensation amount. However, the said suit was dismissed in default. An application filed to restore the said suit was also dismissed. Against the said order, C.M.A is filed, however, no interim order was granted therein in favour of the appellant herein. The appropriate forum for the appellant to workout his remedy is before the competent civil Court. The proceedings in the impugned writ petition are distinct i.e., with regard to payment of compensation awarded. Since there is a direction to pay the compensation amount within a stipulated time, it cannot be said

that the impugned order is contrary to law and facts of the case and is unsustainable.

10. The appeal is devoid of merits and is accordingly dismissed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall also stand dismissed.

RAGHVENDRA SINGH CHAUHAN, HCJ

Dr. SHAMEEM AKTHER, J

Date: 19.08.2019
grk

