HIGH COURT OF ANDHRA PRADESH : AMARAVATI

CHIEF JUSTICE J.K. MAHESHWARI

&

JUSTICE J. UMA DEVI

WRIT APPEAL No.1285 of 2018

(Taken up through video conferencing)

The Special Collector,
Telugu Ganga Project Nellore,
SPSR Nellore District,
Andhra Pradesh State and another.

.. Appellants.

Versus

1. Sarvepalli Narsaiah (died), S/o Ankaiah,
Rep., by his L.R. S. Venkatarathnam, aged 40 years,
R/o Thanamcherla village, Rapur Mandal,
SPSR Nellore District and (26) others.

..Respondents.

Counsel for the Appellants : Additional Advocate General

Counsel for respondents 1 to 26 : Sri D. Kodandarami Reddy

ORAL JUDGMENT

Dt: 24.12.2020

per J.K. Maheshwari, CJ

1. Challenging the order dated 24.07.2018 passed by learned single Judge in W.P.No.11083 of 2018, this appeal has been preferred.

2. By the impugned order, the learned single Judge rejected the plea of delay and laches; recorded a finding of discrimination in the matter of grant of compensation, without determining the market value on par with the other persons, and directed to pay

the compensation to the assignees/lessees as per the market value following the provisions of the Land Acquisition Act, 1894.

3. Sri Syed Khader Masthan, learned Government Pleader from the office of the learned Additional Advocate General appearing for the appellants, strenuously urged that on the point of delay and laches, averments have not been made that the writ petitioners are illiterates/inarticulate/ deprived persons and in the absence thereto, the finding as recorded by learned single Judge is not sustainable. On the merits of the case, it is urged that any circular/G.O. issued by the State Government in the year 2016 would not be applicable in respect of the lands acquired in the year 2003, therefore, the order passed by the learned single Judge, without considering the said aspect is wholly unsustainable.

4. Heard the counsel for both the parties and perused the facts of the case. During the course of hearing, it is not disputed by the learned Government Pleader that the writ petitioners were assignees/licencees. It is also not in dispute that the land belonging to the writ petitioners has been taken by the Government. Now, the question is as to how the amount of compensation has to be paid. As per the procedure prescribed under the statute either under the Land Acquisition Act or under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the determination of compensation is to be made as per the market value on the date on which the land has been taken. The learned single Judge has

held that "the action of respondents in not determining market value of the lands in occupation of each of the petitioners is discriminatory" because benefit has been given to others in different manner. The said factual position or finding as recorded by the court is not disputed during the course of hearing. When the land of a person, who is assignee/lessee has been taken by the Government, in the matter of grant of compensation, the right cannot be infringed and it must be in conformity to the provisions of law. In that view of the matter, on merits of the case, we affirm the findings of the learned single Judge as recorded.

5. In view of the above and in addition to the above discussion as made by learned single Judge, in case the court found that the right to a citizen is being infringed while taking the land without following the provisions of the Act, the question of delay and laches is not germane. Therefore, we affirm the finding as recorded by learned single Judge on the point of delay and laches. This appeal is bereft of any merit.

6. Accordingly, the Writ Appeal is dismissed. No costs. As a sequel, all the pending miscellaneous applications shall stand closed.

J.K. MAHESHWARI, CJ **J. UMA DEVI, J**

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CHIEF JUSTICE J.K. MAHESHWARI

&

JUSTICE J. UMA DEVI

WRIT APPEAL No.1285 of 2018

(per J.K. Maheshwari, CJ)

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