

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION NOs.10969 OF 2021 AND 34600 OF 2022

COMMON ORDER:

The issue involved in these two writ Petitions is in respect of the land admeasuring Acs.3.31 gts situated in Survey No.183/a of Singapur Village of Naspur Mandal, Mancherial District. The petitioners in both the Writ Petitions are having rival claim over the subject land and they also made claim before the respondent-Land Acquisition Officer ("LAO" for short) in the land acquisition proceedings initiated in respect of the subject land. Having taken note of the rival claims, the respondent-LAO has made a reference under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("the Act, 2013" for brevity), by depositing the compensation amount of Rs.26,62,858/- before the fifth respondent-Land Acquisition Rehabilitation & Resettlement Authority ("Authority" for short) through the letter vide Rc.No.A/924/2010 dated 27.01.2021. Aggrieved by the said reference dated 27.01.2021, the present Writ Petitions are filed by both the claimants.

2. The contention of the learned counsel for the petitioner in W.P.No.10969 of 2021 is that the respondent-LAO is duty

bound to examine the matter on merits as to the entitlement or otherwise of each of the rival claimants and unless and until there is a *prima facie* basis for claiming the compensation, the respondent/LAO is under no obligation to entertain such frivolous claims and not entitled to make a reference under Section 64 of the Act, 2013. It is further contended that the respondent-LAO is entitled to examine the matter on merits with reference to entitlement or otherwise of the rival claimants and make the payment to the person entitled for compensation and also placed reliance on a judgment of this Court in **Ganta Srinivasa Rao v. State of Telangana & Others**¹ and also contended that this Court, at the instance of the petitioner in W.P.No.10969 of 2021, directed the respondent-LAO to consider the claims of the rival parties by an order dated 21.09.2020 and as such, the respondent-LAO ought not to have made a reference under Section 64 of the Act, 2013. Learned counsel for the petitioner in W.P.No.34600 of 2022 also contended that in view of the order passed by this Court in W.P.No.16311 of 2016 dated 21.09.2020, the respondent-LAO ought to have decided the matter on merits instead of referring the matter to the respondent-Authority.

¹ 2020(5) ALD 96

3. Thus, both the counsel appearing for the petitioners in the respective Writ Petitions contended that they have better title over the subject land over the other and they have made an attempt to press their title and entitlement by placing reliance on various documents including the revenue records and registered conveyance deeds, etc.

4. No doubt this Court, while disposing of W.P.No.16311 of 2016, directed the respondent-LAO to pass necessary orders on merits. The said order is required to be construed as the one directing the respondent-LAO to act within the parameters of the various provisions provided under Act, 2013, but not beyond. The examination of various provisions contained in the Act, 2013 i.e. Sections 60 to 64, in particular Section 64 of the Act, 2013, makes it clear that in case the award is not accepted by any party on the written application made by such party to the Collector requiring the matter to be referred for determination of the Authority, the respondent-LAO is under obligation to refer the matter to the respondent-Authority for adjudication, be it on the question of measurement of particular land, the amount of compensation, the person to whom it is payable, etc. The impugned order of reference dated 27.01.2021 reads as under:-

“Where-as the compensation determined Under Rule 26 of Telangana State Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 and Under Section 23 & 30 of the RFCTLARR, Act 2013 (Act.No.30 of 2013). Accordingly, Award passed for payment compensation for want of claims/documents of title ownership of the lands in Sy.No.183 to an extent of Ac.3-31 Gts. situated at Singapur Village of Naspur Mandal (erstwhile Mancherial), vide Award Proceedings No.A/924/2010, Dated 31.12.2014, dispute as to the title to pay the compensation.

Smt. Thota Padma W/o. Kistaiah, R/o Singapur Village of Naspur Mandal (erstwhile Mancherial), Mancherial District have not accepted to receive the compensation due to dispute as to the title to pay the compensation awarded by the Land Acquisition Officer & Revenue Divisional Officer, Mancherial under Section 23 of Act 30 of 2013.

The award made by the Land Acquisition Officer & Revenue Divisional Officer, Mancherial, a copy of which is here to annexed and have required by the accompanying applications, that the matter be referred to the Land Acquisition Rehabilitation and Resettlement Authority. I, here by made reference to the Land Acquisition Rehabilitation & Resettlement Authority, CCLA Office premises, Abids Road, Nampally, Hyderabad.”

From a perusal of the said reference, it is evident that the petitioner in W.P.No.10969 of 2021 refused to accept the award and receive compensation due to dispute as to the title over the subject property. This factual averment contained in the order of reference is not disputed by either of the counsel for the petitioners.

5. Taking into consideration the voluminous material placed on record by both the petitioners in their respective Writ Petitions and the nature of claim that is made by the petitioners, this Court is of the view that neither the respondent-LAO nor this Court would be in a position to appreciate or adjudicate the rival contentions and claims made

by the respective petitioners and the same requires a detailed enquiry in the matter. The respondent-LAO is not conferred with any adjudicatory power to adjudicate the right, title and entitlement of the rival claimants and it is only when a rival claim is made by any of the parties without there being any basis for such claim, the respondent-LAO would be in a position to take a decision in the matter. But the case on hand is not of such nature and it requires a detailed enquiry in order to decide the entitlement of either of the petitioners to claim the compensation in question. In the circumstances, this Court is not inclined to entertain both the Writ Petitions and is of the considered view that the respondent-LAO has rightly referred the matter under Section 64 of the Act, 2013 to the respondent-Authority and absolutely, there is no error or illegality in making such reference. The judgment of this Court in **Ganta Srinivasa Rao v. State of Telangana & Others** (1 supra) has no application to the facts of the case on hand.

6. In the circumstances, both the Writ Petitions are dismissed leaving it open to the petitioners in both the Writ Petitions to agitate their claims before the respondent-Authority in accordance with law taking into consideration the fact that the impugned reference was made in proceedings vide

Rc.No.A/924/2010 dated 27.01.2021 and because of the pendency of these two Writ Petitions, no proceedings could be taken on the said reference by the respondent-Authority, the respondent-Authority is directed to take immediate steps for taking reference on to its file and to dispose of the same as early as possible, at any rate within a period of four (4) months from the date of receipt of a copy of this order by affording a reasonable opportunity to all the parties concerned in accordance with law.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

(MUMMINENI SUDHEER KUMAR, J)

31st October 2022
RRB