

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION NO: 9626 OF 2023

Between:

Repaka Laxmi Narayana, S/o. Late Narasaiah, Age 75 years, OCC. Retired Post Master, R/o. H.No. 6/22/5, Sai Nagar, Old Bus Depot Road, Kothagudem District, Bhadradi Kothagudem.

...PETITIONER

AND

1. The State of Telangana, Rep by its Principal Secretary, Revenue Department, Secretariat, Hyderabad.
2. The District Collector, Bhadradi Kothagudem, District.
3. The Land Acquisition officer-cum Sub-collector, Bhadrachalam, Bhadradi Kothagudem, District
4. The Tahsildar, Manugur, Bhadradi Kothagudem, District.
5. Rasakatla Ravishanker, S/o not known to petitioner, Aged 45 years, Occ. Medical Practitioner, R/o. H.No. 9-1-309, Sy.No. 341, Bandurugudem Village, Manuguru Mandal and Municipality, Bhadradi Kothagudem, District

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue any writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the respondents in not providing with copy of the award vide Rc. No. C/243/2018 dated 01/05/2021, passed by the 3rd respondent in acquiring the house H.No. 9-1-309, situated in Sy.No. 341/5, Bandurugudem Village of Manuguru Mandal and Municipality, Bhadradi Kothagudem District and further paying the compensation to 5th respondent as arbitrary, illegal, bad in law, violative of Article 14, 19, 21 and 300-A of Constitution of India and consequently direct the respondents to recover the compensation amount paid to 5th respondent under the award vide Rc.No. C/243/2018 dated

01/05/2021 in respect of the house H.No.9-1-309, situated in Sy.No.341, Bandurugudem Village of Manuguru Mandal and Municipality, Bhadradri Kothagudem District, further direct the respondents to pay the compensation amount to the petitioner herein along with interest @ 12 % for annum from date of award till the date of actual payment.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to by directing the respondent no.3 to recover the compensation amount paid under the land acquisition award vide Rc. No. C/243/2018 dated 01.05.2021 in respect of H.No. 9-1-309, situated in Sy.No. 341, Bandurugudem Village of Manuguru Mandal and Municipality, Bhadradri Kothagudem District, from the 5th respondent herein, deposit the said amount before this Hon'ble Court.

Counsel for the Petitioner: SRI P.V.L.BHANU PRAKASH

Counsel for the Respondent No.1, 2 & 4: GP FOR REVENUE

Counsel for the Respondent No.3: GP FOR LAND ACQUISITION

Counsel for the Respondent No.5: --

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION No.9626 of 2023

ORDER:

Heard learned counsel appearing for the petitioner, learned Government Pleader for Revenue appearing for respondent Nos.1, 2 and 4 and learned Government Pleader for Land Acquisition appearing for respondent No.3.

2. This writ petition is filed seeking a writ of mandamus to declare the action of the respondents in not providing a copy of the Award in proceedings Rc.No.C/243/2018, dated 05.05.2021, and also the action of the respondents in paying compensation in favour of respondent No.5 in respect of house property bearing No.9-1-309 in Survey No.341/5 situated at Bandurugudem Village, Manuguru Mandal and Municipality, Bhadravadi Kothagudem District, as illegal and arbitrary, and also sought for a consequential direction directing the respondents to pay compensation in respect of the said house property in favour of the petitioner herein along with interest at 12% per annum from the date of Award till the date of actual payment.

3. The grievance of the petitioner is that the subject property bearing House No.9-1-309 was acquired by the respondents and an Award was passed, but the petitioner was not put on notice at any point of time. In spite of the petitioner approaching the respondents requesting them to furnish a copy of the said Award under the Right to Information Act, 2005, the same was declined by the respondents on the ground that the said Award contains a third party information and the name of the petitioner is not mentioned in the said Award. Having been aggrieved by the same, the petitioner approached this Court by filing the present writ petition.

4. Respondent No.3 filed counter affidavit stating that the subject property was acquired by passing an Award in Rc.No.C/243/2018, dated 05.05.2021, and a copy of the Award is also annexed to the said counter affidavit. In the counter affidavit, it is further stated that after passing of the Award, dated 05.05.2021, respondent No.5 approached respondent No.4 and submitted a representation stating that his wife expired on 04.06.2021 and made a request for payment of compensation in respect of the subject property in his favour. Respondent No.4 claimed to have verified the documents produced by respondent No.5 and after obtaining permission

from respondent No.2, claimed to have paid the compensation of Rs.24,14,697/- in favour of respondent No.5 on 31.12.2021.

5. A perusal of the Award, dated 05.05.2021, shows that respondent No.4 has taken note of the rival claims made by the petitioner and the wife of respondent No.5 for payment of compensation in respect of the subject property and in view of the dispute, respondent No.4 stated as under:

"... The House Owner and Tax payer Sri Repaka Laxmi Narayana, Smt. Rasakatla Sredevi, W/o. Ravi Shankar recorded as enjoyer in P.D. and purchased from Sri R. Laxmi Narayana. She has not produced any relevant document in her favour. Hence, the amount is deposited with the authority u/S.64 r/w 77 (2) of the L.A.R.R. Act, 2013."

6. Respondent No.4, having passed the Award, dated 05.05.2021, by making a specific reference to the dispute with regard to payment of compensation, and having decided to refer the matter to Land Acquisition, Rehabilitation and Resettlement (LA R&R) Authority under Section 64 read with Section 77 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act, 2013'), entertained the application submitted by respondent No.5 and in deviation of the decision

made in the Award, paid compensation in favour of respondent No.5. Respondent No.4 purported to have exercised his discretion under Section 33 of the Act, 2013. Section 33 of the Act, 2013 only enables the Collector to rectify any clerical or arithmetical mistakes either in the awards or either on his own motion or on the application of any person interested or local authority. The decision made by respondent No.4 in the Award to refer the matter under Section 64 read with Section 77 (2) of the Act, 2013 cannot be said to be a mistake of arithmetical or clerical in nature.

7. By resorting to exercise the power under Section 33 (2) of the Act, 2013, respondent Nos.2 and 3 have exceeded their limit and deprived the petitioner of his legitimate claim for payment of compensation in question. Further, in terms of proviso to Section 33 of the Act, 2013, no correction which is likely to affect any person prejudicially shall be made unless such person has been given a reasonable opportunity of making representation in the matter.

8. In the instance case, there is a specific reference about the petitioner in the Award passed by respondent No.4. The dispute between the petitioner and the wife of respondent No.5

is also very well taken note of by respondent No.4 and decided the matter to be referred to the LA, R&R Authority under Section 77 (2) of the Act, 2013. But, for the reasons best known to respondent Nos.2 and 3, without putting the petitioner on notice and without affording any opportunity of hearing to him and behind the back of the petitioner appears to have clandestinely paid the compensation in favour of respondent No.5 in a purported exercise under Section 33 of the Act, 2013. In the circumstances, the action of respondent Nos.2 and 3 in paying compensation amount of Rs.24,14,697/- in favour of respondent No.5 contrary to the mandate of the Award in proceedings vide Rc.No.C/243/2018, dated 05.05.2021, is highly arbitrary and illegal and obviously for extraneous considerations.

9. Though a registered notice is sent to respondent No.5 to his correct address, the same is returned with postal endorsement 'addressee left'. According to learned counsel for the petitioner, respondent No.5 is still residing in the same address to which the registered notice was sent. Hence, the service of notice on respondent No.5 is deemed complete. Even otherwise, if notice is not served on respondent No.5 also, the illegality committed by respondent Nos.2 and 3 in paying

compensation in favour of respondent No.5 is apparent on the face of the record and the same is evident from the counter affidavit filed by respondent No.3. Therefore, even if respondent No.5 appears before this Court, the conclusion that could be arrived at would be the same.

10. In the light of the same, the writ petition is allowed with costs directing respondent No.4 to refer the dispute with regard to entitlement for payment of compensation in respect of the subject property covered at Serial No.20 of the Statement of Apportionment annexed to the Award, date 05.05.2021, to the LA, R&R Authority under Section 64 read with Section 77 (2) of the Act, 2013 as expeditiously as possible, at any rate within a period of six (6) weeks from the date of receipt of a copy of this order.

11. Further, in the event, the LA, R&R Authority comes to the conclusion that the petitioner is entitled for payment of compensation in question, respondent Nos.2 and 3 shall deposit the entire compensation amount together with interest in terms of Section 80 of the Act, 2013 within a further period of six (6) weeks from the date of decision of the authority. In such an event, it is open for the respondents to recover the

amount of compensation already paid to respondent No.5 in accordance with law. Respondent Nos.2 and 3 shall also put respondent No.5 on notice while making a reference to the LA, R&R Authority. The costs are quantified at Rs.25,000/- payable by respondent Nos.2 and 3 to the petitioner.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

MEMORANDUM OF COSTS

W.P.NO.9626 OF 2023

Costs Quantified by Hon'ble Court (That the Respondent Nos.2 & 3 herein are directed to pay costs of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the Petitioner.

Rs. Ps.

25,000-00

TOTAL

25,000-00

**SD/- K. AMMAJI
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Revenue Department, Secretariat, Hyderabad, State of Telangana.
2. The District Collector, Bhadrachalam, District.
3. The Land Acquisition officer-cum Sub-collector, Bhadrachalam, Bhadrachalam, District
4. The Tahsildar, Manugur, Bhadrachalam, District.
5. One CC to SRI P.V.L.BHANU PRAKASH, Advocate [OPUC]
6. Two CCs to GP FOR REVENUE, High Court for the State of Telangana at Hyderabad [OUT]
7. Two CCs to GP FOR LAND ACQUISITION, High Court for the State of Telangana at Hyderabad [OUT]
8. Two CD Copies

BSR

GJP *AVH*

HIGH COURT

DATED: 16/11/2023

ORDER

WP.No.9626 of 2023



ALLOWING THE WRIT PETITION,
WITH COSTS

(12)
11/12/23
HVS