

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

**TUESDAY, THE TWENTY FOURTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 34631 OF 2014

Between:

1. Noor Jahan Begum, (Died as per LRs)
2. Mrs.Yazdani Banu W/o.Late Khaja Arshad Moin, Aged about 60 years, Occ; Household,
3. Mrs.Sheeba Arshad, D/o.Late Khaja Arshad Moin, Aged about 38 years, Occ; Household,
4. Mrs.Sheemrina Arshad, D/o.Late Khaja Arshad Moin, Aged about 35 years, Occ; Household,
5. Mr.Khaja Ahwar Arshad, S/o.Late Khaja Arshad Moin, Aged about 34 years, Occ; Household,
6. Mr.Khaja Junaid Arshad, S/o.Late Khaja Arshad Moin, Aged about 60 years, Occ; Household,

All are R/o.H.No.19-2-246, HH Residency, Ramnaspura, Chandu Lal, Baradari, Bahadurpura, Hyderabad.

Petitioner Nos.2to6 are brought on record as LRs of the deceased Petitioner No.1 as per C.O.dt.24-12-2024 in IA No.1/2023.

...PETITIONERS

AND

1. The Commissioner, Greater Hyderabad Municipal Corporation, B.R.K.R. Bhavan, Tank Bund, Hyderabad.
2. The Special Deputy collector (Land Acquisition), Greater, Hyderabad Municipal Corporation, B.R.K.R. Bhavan, Tank Bund, Hyderabad.

...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 pass a writ or direction more particularly one in nature of WRIT OF MANDAMUS declaring the action of the respondents in not considering the application of the petitioner dt. 23-4-2011 and 20-6-2011, and consequently not

making a reference under Sec. 18 to the Civil Court as highly arbitrary, illegal and devoid the principles of natural justice.

I.A. NO: 1 OF 2014(WPMP. NO: 43326 OF 2014)

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 direct the respondents to consider the applications dt. 23-4-2011 and 20-6-2011 and dispose off the same forthwith pending disposal of the above writ petition.

Counsel for the Petitioner : M/s.DEVAKINANDAN RATHI

Counsel for the Respondent No.1 : SRI MIDDE ARUN KUMAR (SC FOR GHMC)

Counsel for the Respondent No.2 : GP FOR LAND ACQUISITION

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition No.34631 of 2014

ORDER:

Since 1st petitioner died, her legal representatives have come on record as petitioner Nos.2 to 6, *vide* order dt.24.12.2024 in I.A.No.1 of 2023.

2. Heard learned counsel for the petitioners, learned Standing Counsel for GHMC appearing for respondent No.1, and learned Government Pleader for Land Acquisition appearing for respondent No.2 and perused the record.

3. Shorn of unnecessary details, the case of the 1st petitioner, in brief, is that being aggrieved by the award dt.19.12.2009 passed by the 2nd respondent, the 1st petitioner had approached the respondents-authorities and submitted an application dt.20.06.2011, under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act'), seeking reference to the Court, and in spite of the 1st petitioner submitting the aforesaid application, the same has not been referred to the Court as of date, which action it is contended is highly illegal, and arbitrary.

4. Petitioners further contend that as the 1st petitioner did not take part in the award proceeding, the time limit for filing the said application under Section 18 of the Act would be of two months from the date of

respondents issuing notice under Section 12(2) of the Act, and inasmuch no such notice has been issued to the 1st petitioner, she became aware of passing of the award only when the respondents-authorities have visited her property on 23.04.2011 for payment of the award amount and as such, the application filed by her on 20.06.2011 is to be considered as being within the time prescribed under the Act.

5. A counter-affidavit on behalf of respondent No.2 is filed.

6. Though the 2nd respondent by the counter-affidavit filed, claim of having issued notice dt.28.01.2011 under Section 12(2) of the Act and having served the same on the 1st petitioner personally, no material is placed before this Court to show that the aforesaid notice having been served on the 1st petitioner in the manner prescribed under Section 45 of the Act.

7. Further, the original notice of award as issued by the respondents-authorities under Section 12(2) of the Act in Form No.9 dt.28.01.2011, though bears some initials, the said initials affixed on the copy of the notice of award are not that of the 1st petitioner, as the 1st petitioner has affixed her signature on various correspondence made with respondents in Urdu, nor the said initials can be identified as belonging to any adult member of the petitioners' family for it to be considered as valid service of notice under Section 45 of the Act, for this Court to hold that the

petitioners having been served with the notice and thus, the application filed under Section 18 of the Act being beyond the term prescribed under the Act.

8. In the absence of the respondents placing on record any material to show the petitioners having been served with the notice of award under Section 12(2) of the Act, any time after the date of its preparation/issuance, mere statement made in the counter-affidavit by the 2nd respondent of the 1st petitioner being served with the notice issued under Section 12(2) of the Act on the date of its issue cannot be accepted as valid claim, for this Court to hold that the application submitted by the 1st petitioner on 20.06.2011 either being barred by time or to reject the claim of the 1st petitioner of she having become aware of the award only on 23.04.2011, when the respondents-authorities have come to make the payment of compensation amount under the award.

9. In view of the above, this Court is of the view that since, the 1st petitioner being aggrieved by the compensation amount awarded under award dt.19.12.2009 had approached the respondents-authorities by submitting an application on 20.06.2011, the authorities are required to make a reference of the said application to the Court under Section 18 of the Act. Since, the respondents-authorities have failed to make a reference of the said application to the Court, as of date, this Court is of the view that the respondents-authorities are to be directed to make a

reference of the said application of the 1st petitioner to Court under Section 18 of the Act, within a period of six (06) weeks from the date of receipt of a copy of this order.

10. Subject to above direction, the Writ Petition is disposed of. No order as to costs.

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

//TRUE COPY//

Sd/- V. KAVITHA
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Commissioner, Greater Hyderabad Municipal Corporation, B.R.K.R. Bhavan, Tank Bund, Hyderabad.
2. The Special Deputy collector (Land Acquisition), Greater, Hyderabad Municipal Corporation, B.R.K.R. Bhavan, Tank Bund, Hyderabad.
3. One CC to SRI DEVAKINANDAN RATHI, Advocate. [OPUC]
4. One CC to SRI MIDDE ARUN KUMAR (SC FOR GHMC). [OPUC]
5. Two CCs to GP FOR LAND ACQUISITION, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CD Copies.

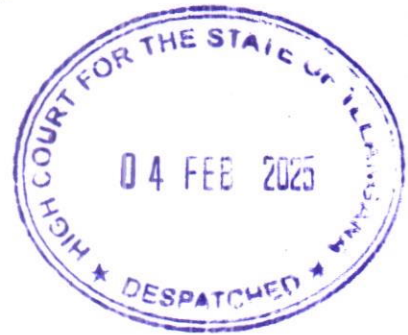
BSK

§

HIGH COURT

TVK,J

DATED:24/12/2024



ORDER

WP.No.34631 of 2014

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

⑨ Copies

Sms
4/2/25