

Andhra Pradesh High Court - Amravati

K.Chinnappa Reddy vs The State Of A.P. , on 11 May, 2023

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

W.P.No.38576 of 2016

ORDER:

The case of the petitioners is that they were owners of Ac.16.12 cents of land in various survey numbers of Nossam Village, Kurnool District. These lands were made the subject matter of land acquisition, for the purpose of Srisailam Right Bank Canal, by way of a notification issued under Section 4(1) of the Land Acquisition Act, 1894, on 05.02.2009. As no further steps were being taken, the petitioners had moved W.P.No.21303 of 2011 and W.P.No.21296 of 2011 for a direction to the Land Acquisition Officer to complete the acquisition proceedings and to pass an award. This writ petition was allowed on 20.12.2011 with a direction to the acquisition officer to pass an award within a period of three months. In pursuance of this direction, the Land Acquisition Officer had passed orders on 9.03.2012 rejecting the claim of the petitioners on the ground that the said land is Government land and that the petitioners have no right or title over the property.

2. Subsequently, the petitioners again moved the erstwhile High Court of Andhra Pradesh by way of W.P.No.23418 of 2012 for a direction to the acquisition officer to pass an appropriate award. This writ petition was disposed of on 30.01.2013 with a direction to the Land Acquisition Officer to pass an award within three months again. As this order was not being complied, the petitioners filed C.C.No.2122 of 2023.

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At that stage, the respondents therein produced a copy of the award said to have been passed on 19.11.2013 granting compensation of Rs.50,000/- per acre. As the compensation was not deposited, the petitioners again moved the erstwhile High Court at Hyderabad for the State of Telangana and the State of Andhra Pradesh by way of W.P.No.30184 of 2014 for a direction to the respondent authorities to deposit the award amount. This writ petition was disposed of on 28.10.2014 directing the authorities to deposit the award amount while leaving it open to the petitioners to approach the civil Court for further enhancement of compensation.

3. Even before the passing of this order, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Land Acquisition Act 2013') came into effect on 01.01.2014, by virtue of the Gazette notification published on 26.09.2013. The respondent authorities, had thereafter, deposited the compensation before the Land Acquisition Officer on 26.02.2015.

4. The petitioners have now approached this Court by way of the present writ petition seeking a declaration that the compensation for the petitioner should have been fixed in accordance with the

Land Acquisition Act, 2013 and not in terms of the Land Acquisition Act, 1894 and for a consequential direction to the respondents to fix compensation and pay the same to the petitioners in accordance with the Land Acquisition Act, 2013.

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5. Sri C.B. Rama Mohan Reddy, learned Senior Counsel appearing for the petitioners would contend that the provisions of Section 24 of the Land Acquisition Act, 2013 would apply to the present case. He would submit that the Land Acquisition Officer was required to pass an award in terms of the order of this High Court, dated 20.12.2011 and consequently, any award passed subsequent to the time fixed by the High Court would have to be taken to have been passed within the time fixed by the High Court. As such, the provisions of Section 24 of the Land Acquisition Act, 2013 would apply, and consequently, the compensation would have to be fixed in accordance with the provisions of the Land Acquisition Act, 2013.

6. He relies upon the judgments of this Court in Ratan Singh vs. Union of India and Anr.,¹ and Delhi Development Authority vs. Sukbir Singh and Ors.,². He would also rely upon a judgment of the learned Single Judge of this Court reported in G.V. Satyanarayana vs. State of A.P.,³ in support of his contentions.

6. The learned Government Pleader for land acquisition relies upon the counter affidavit filed by the respondents and submits that the provisions of Section 24 of the 2013 Act would not be applicable.

2016 (1) ALD 135

2016 (6) ALD 98 (SC)

Laws (APH) 2022-9-144

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Consideration of the Court:

7. Section 24 of the Land Acquisition Act, 2013 reads as follows:

Section 24 -Land acquisition process under Act No. 1 of 1984 shall be deemed to have lapsed in certain cases.

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.

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8. Section 24(1) states that where an award had not been passed before 1.1.2014, in any acquisition proceeding initiated under the Land Acquisition Act of 1894, the compensation payable under the said award would have to be calculated in accordance with the provisions of the 2013 Act. Section 24 (2) of the Land Acquisition Act, 2013 stipulates that where an award has been made under Section 11 of the 1894 Act more than 5 years prior to the commencement of the Act and where physical possession of the land has not been taken and compensation has not been paid, the said proceeding shall be deemed to have lapsed and fresh proceedings under the provisions of the Land Acquisition Act, 2013 would have to be initiated if the Government so chooses.

9. This provision has been considered by the Hon'ble Supreme Court in Ratan Singh vs. Union of India and Anr.,⁴ wherein it was held that the precondition of the award being passed before 1.1.2009 has to be complied before the provisions of section 24 (2) can be applied. The award, in this case, was passed on 19.11.2013. In Delhi Development Authority vs. Sukbir Singh and Ors.,⁵ the

Hon'ble Supreme Court had applied the provisions of section 24 (2) of the land Acquisition Act, 2013 on the finding that the award had been passed more than 5 years before the Land Acquisition Act, 2013 had come into effect.

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10. In Indore Development Authority vs. Manoharlal and Ors.,⁶ The issue before the Hon'ble Supreme Court was on the question of whether the proceedings would lapse, if either of the conditions, viz., not taking possession or non-payment of compensation, should be read conjunctively or disjunctively. This issue is now fairly concluded by the judgment of the Hon'ble Supreme Court, wherein it was held that both the conditions have to be met before the proceedings under the earlier Act would lapse.

10. In the present case, there is no dispute that possession of the land has been taken. Further, the award, as can be seen from the dates set out above, has been passed on 19.11.2013, within 5 years of the Land Acquisition Act, 2013 coming into force on 01.01.2014. In the circumstances, the provisions of Section 24 of the Land Acquisition Act, 2013 would not come to the aid of the petitioners.

11. Accordingly this writ petition is dismissed. There shall be no order as to costs. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

_____ R. RAGHUNANDAN RAO, J.

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(2020) 8 SCC 129

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Js.