

THE HON'BLE ACTING CHIEF JUSTICE A.V. SESA SAI

AND

THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

WRIT APPEAL No.538 of 2023

JUDGMENT:- (per A.V. Sesha Sai, ACJ)

Heard Smt. A. Sree Jayanthi, learned Government Pleader for Land Acquisition, appearing for the appellants, Sri S.Lakshmi Narayana Reddy, learned counsel, appearing for the writ petitioner/respondent No.1.

2. This Writ Appeal preferred by the respondents 2 and 3 in W.P.No.10782 of 2014 calls in question the order dated 02.09.2022, passed by the learned Single Judge in the aforesaid Writ Petition. By way of the order impugned in the appeal, the learned Single Judge allowed the Writ Petition.

3. The facts which are relevant for the purpose of adjudicating the issue in the present Writ Appeal are as under:

The Land Acquisition Authorities pressed into service the provisions of the Land Acquisition Act, 1894 (hereinafter referred as 'the Act') and issued a Notification under sub-section (1) of Section 4 of the Act, proposing to acquire the property of the writ petitioner for construction of balancing Reservoir-1

under Sri Anam Sanjeeva Reddy Somasila Project. Subsequently, on 07.01.2014, a Declaration under Section 6 was published in the Gazette. Admittedly, the Land Acquisition Officer, by invoking the provisions of sub-section (4) of Section 17 of the Act, dispensed with the enquiry under Section 5(A) of the Act.

4. The Special Collector (appellant No.1 herein) issued an Erratta on 20th day of February, 2014, deleting the structure namely zinc sheet shed mentioned in 4(1) Notification and Section 6 Declaration. Assailing the said Erratta Notification dated 20.02.2014, deleting the aforesaid structures, respondent No.1 herein filed the present W.P.No.10782 of 2014. In this context, it would be appropriate to extract the prayer sought in the Writ Petition which reads as follows:

“to issue Writ, or Direction especially one in the nature of Writ of MANDAMUS holding the action of the respondents in issuing Erratta Notification in Andhra Bhoomi Daily dated 20.02.2014 by deleting my structures published in Section 6 Declaration published in Surya and Hans India Telugu and English Daily news papers dated 12.01.2014 is illegal, arbitrary and against to the provisions of Land Acquisition Act and quash the Erratta notification issued by the 3rd respondent published in Andhra Bhoomi Daily dated 20.02.2014 and consequently direct the

respondents to pay compensation to the structures of the petitioner forthwith.”

5. The learned Single Judge allowed the Writ Petition and the operative portion of the order dated 02.09.2022 in paragraph No.18 reads as follows:

“In view of the foregone discussion, this Court is of the considered opinion that the Writ Petitioner succeeds and the provisions of the new enactment would be applied in so far as the determination of the compensation is concerned. However, since the acquisition along with taking over of possession of the proposed land by invoking urgency clause has been issued on 08.01.2014, the Writ Petitioner would be entitled for compensation in the form of damages from the said date namely 08.01.2014.”

6. The learned Government Pleader, strongly resisting the aforesaid order, contends that the order of the learned Single Judge declaring that the writ petitioner would be entitled for compensation in the form of damages from 08.01.2014 is beyond the scope of the writ petition and the learned Judge ought not to have granted the said relief in view of the statutory safeguards as provided under Act 30 of 2013. It is further submitted by the learned Government Pleader that the proceedings initiated pursuant to Notification under Section 4 of

the Act stood lapsed by afflux of time in view of the provisions of Section 24 of Act 30 of 2013 and in view of the same, fresh proceedings under Act 30 of 2013 have been initiated and Notifications under Section 11(1) and Declaration under Section 15 of the Act came to be issued on 31.12.2019 and 31.03.2020 respectively and the structures as mentioned in the writ petition have also been mentioned in the said Notification and Declaration. While contending so, it is further submitted by the learned Government Pleader that in view of the subsequent developments, the learned Single Judge ought to have closed the Writ Petition by observing the aforesaid facts.

7. On the contrary, Sri S. Lakshmi Narayana Reddy, learned counsel for the 1st respondent/writ petitioner contended that having regard to the factual situation, the learned Single Judge is perfectly justified in declaring that the writ petitioner is entitled for compensation from the date of taking possession i.e., 08.01.2014.

8. In the above background, now the issue which this Court is called upon to answer in the present Writ Appeal is-whether the order passed by the learned Single Judge is sustainable and tenable?

9. There is absolutely no controversy with regard to the reality that the earlier proceedings initiated under the Land Acquisition Act, 1894 including Erratta Notification dated 20.02.2014 stood lapsed in view of the provisions of Act 30 of 2013 and obviously keeping in view of the same, the Land Acquisition authorities initiated proceedings afresh and issued Notification under Section 11(1) of Act 30 of 2013 on 31.12.2019 and Declaration under Section 19 of the Act on 31.03.2020. It is absolutely not in dispute that the structures as mentioned in W.P.No.10782 of 2014 have been mentioned in the said notification. Therefore, in the considered opinion of this Court, the learned Single Judge ought to have closed the Writ Petition by placing the aforesaid realities on record. It is also required to be noted that the writ petitioner is not entitled to damages and the impugned order travels beyond the scope of the prayer in the Writ Petition. It is also pertinent to note that since the proceedings under the new Act 30 of 2013 had already been initiated, there is an alternative remedy availability to the writ petitioner under the provisions of Section 28 of the Act to claim the damages during the course of determination of compensation, by way of award, by the competent authority.

10. For the aforesaid reasons, the Writ Appeal is allowed, setting aside the order of the learned Single Judge to the extent of declaring the entitlement of the writ petitioner to the damages. However, it is open for the 1st respondent/writ petitioner to avail all the remedies including the one referred to above for redressal of his grievance.

11. Accordingly, the Writ Appeal is allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this case, shall stand closed.

A.V. SESA SAI, ACJ

R. RAGHUNANDAN RAO, J

11.07.2023

RJS

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