
**G.N. Rajender, Smt. G. Sandhya Rani, M. Madhu Sudhan Reddy and Smt.
M. Vinodini Reddy Vs The Government of Andhra Pradesh and The
Special Deputy Collector LA Greater Hyderabad Municipal Corporation**

Writ Petition No. 26006 of 2011

Court: Andhra Pradesh High Court

Date of Decision: Sept. 16, 2011

Acts Referred:

Constitution of India, 1950 " Article 226#Land Acquisition Act, 1894 " Section 18, 18(1), 23, 34, 4(1)

Hon'ble Judges: C.V. Nagarjuna Reddy, J

Bench: Single Bench

Advocate: M. Narender Reddy, for the Appellant; C. Damodar Reddy, SC for GHMC Counsel for Respondent No. 2 and G.P. for Revenue Counsel for Respondent No. 3 and 4, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

C.V. Nagarjuna Reddy

1. This Writ Petition is filed for a Mandamus to set aside award No. AA/1153/2007, dated 30-10-2010, of respondent No. 4. The petitioner also

sought for a consequential direction to the respondents to pay solatium and additional market value on the value of the structure by passing

supplementary award.

2. The petitioners are owners of certain properties comprising buildings. By a notification, issued u/s 4(1) of the Land Acquisition Act, 1894 (for

short "the Act"), and published in the A.P. Gazette, dated 06-11-2007, the said properties were acquired. Respondent No. 4 has passed award,

dated 30-10-2010, granting compensation of Rs. 25,000/- per square yard in respect of the land alone. The petitioners pleaded that the value of

the structures was not included in the award on the ground that the Assistant City Planner, Circle IX, GHMC, has not sent cheque for the value of

the structures. Respondent No. 4 has, subsequently, furnished a statement adding the value of the structure to the compensation awarded for the

lands and, accordingly, paid cheques on 04-05-2011, after deducting income tax at the rate of 10.2% on total amount. The petitioners claim to

have received the said amount under protest. Dissatisfied with the quantum of compensation, the petitioners have filed applications, dated 31-05-

2011, before respondent No. 4, seeking reference u/s 18 of the Act. In the present Writ Petition, the grievance of the petitioners is that non-

inclusion of the structural value in the award already passed has deprived them of award of proper solatium and market value.

3. Sri M. Narender Reddy, Learned Counsel for the petitioners, while advancing his submissions on the basis of the pleas contained in the affidavit,

stated that, even though the reference proceedings before the civil Court are pending, in view of a Division bench judgment of this Court in K.

Peda Venkataiah Vs. Government of Andhra Pradesh and Others, the Writ Petition is maintainable.

4. The learned Government Pleader for Land Acquisition, while inviting my attention to Section 18(1) of the Act, submitted that since a reference is

already pending before the competent civil Court, the petitioners are entitled to raise the same question, which is raised in the present Writ Petition,

before the said Court.

5. I have carefully considered the submissions of both the Counsel. Section 18(1) of the Act reads as under:

Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the

Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons

to whom it is payable, or the apportionment of the compensation among the persons interested.

6. An analysis of the above-reproduced provision would show that one of the issues, which can be decided by the reference Court, pertains to

"the amount of compensation". It is indisputable that all the components of compensation payable u/s 23 of the Act fall within the expression of

compensation"". This aspect is settled by the Constitution Bench of the Supreme Court in Sunder Vs. Union of India, beyond any pale of doubt. It

was held therein as under:

It is the legal obligation of the Collector to pay ""the compensation awarded by him"" to the party entitled thereto. It is clarified that the compensation

awarded would include not only the total sum arrived at as per sub-section (1) of Section 23 but the remaining sub-sections thereof as well. It is

thus clear from Section 34 that the expression ""awarded amount"" would mean the amount of compensation worked out in accordance with the

provisions contained in Section 23, including all the sub-sections thereof.

7. It, therefore, necessarily follows that the calculation of solatium and the additional market value are integral part of compensation. As such, the

issue raised by the petitioners in this Writ Petition viz., that the respondents have not followed proper method in computing the solatium and

additional market value, squarely falls within the scope of Section 18(1) of the Act, which can be conveniently decided by the civil Court.

8. As regards the Division Bench judgment of this Court, in the case decided therein, the market value was fixed as on the date of taking

possession instead of the date of notification issued u/s 4(1) of the Act. While dealing with such a fact situation, the Division Bench held that it is the

settled legal position that, when an alternative and equally efficacious remedy is open to litigant, he should be required to pursue that remedy and

not to invoke the special jurisdiction of this Court under Article 226 of the Constitution of India. However, the Division Bench found the case

before it as an exception to the said general rule as the compensation was fixed patently contrary to the provisions of the Act.

9. But, in my opinion, the facts in the present case are not similar to that involved in the case decided by the Division Bench and therefore, the said

judgment does not help the petitioners herein. The petitioner, having already availed the efficacious remedy of reference to civil Court, cannot be

permitted to avail another parallel remedy by way of a Writ Petition by splitting the causes. Such a course, if permitted, encourages multiplicity of

proceedings apart from burdening this Court with needless litigation.

10. For the above-mentioned reasons, the Writ Petition is dismissed with liberty to the petitioners to raise the issues, raised in this Writ Petition, in

the proceedings u/s 18 of the Act.

11. As a sequel to dismissal of the Writ Petition, WPMP. No. 32079 of 2011, filed by the petitioner for interim relief, is disposed of as

infructuous.