

**THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN**

**AND**

**THE HON'BLE SRI JUSTICE N.TUKARAMJI**

**W.A.No.756 of 2008**

**JUDGMENT:** *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

Heard Mr. Sudershan Malugari, learned Government Pleader for Forests representing the appellants.

2. Mr. K.V.Satyanarayana, learned counsel submits that he had initially represented the writ petitioner (respondent)- Syed Imaduddin represented by his General Power of Attorney (GPA) holder- Syed Jameeluddin; Syed Imaduddin expired on 16.10.1997 whereafter his legal heirs have come on record; legal heirs of late Syed Imaduddin have not authorized him to represent them; therefore, he had returned the vakalat.

3. This intra-court appeal is directed against the order dated 02.04.2008 passed by the learned Single Judge allowing W.P.No.28504 of 1996 filed by Syed Imaduddin through his GPA.

4. The related writ petition was filed seeking a writ, order or direction in the nature of a writ of certiorari for quashing the award dated 20.10.1993 passed by the Forest Settlement Officer, Mahabubnagar (briefly 'Forest Settlement Officer' hereinafter) under Sections 10(1) and 11 of the A.P.Forest Act, 1967 as well as for quashing of the order dated 24.10.1995 passed by the learned District Judge, Mahabubnagar dismissing Forest Appeal No.1 of 1993 filed by the original writ petitioner. Further prayer made was for a declaration that appellants were bound to issue a notification for acquisition of the land as directed by this Court in its order dated 23.04.1993 in W.P.No.12457 of 1992.

5. Before we advert to the order dated 02.04.2008, we may mention that Syed Imaduddin had earlier approached this Court by filing W.P.No.12547 of 1992 seeking a direction to the State and forest authorities of Mahabubnagar to pay compensation for acquisition of land admeasuring Acs.942.26 guntas in Survey No.46 of Edavalli Village, Kalwakurthi Taluk in Mahabubagar District *vide* notification No.31/5 of 1349 Fasli.

6. This Court *vide* the order dated 23.04.1993 noted that the above land of Syed Imaduddin was taken over by the State for intrusion in reserve forest *vide* the order dated 03.02.1949. In *lieu* thereof, cultivable land to the extent of Acs.300.00 guntas in Survey Nos.17 and 52 of Karkal Pahad Village, Kalavakurthi Taluk of Mahabubnagar District was allotted to Syed Imaduddin *vide* the award dated 22.02.1951 passed by the Forest Settlement Officer. But, it was alleged that possession thereof was not handed over to him. In the meanwhile, it was stated that even the allotted land of Acs.300.00 guntas was not available being in possession of some other person. Therefore, award dated 22.02.1951 passed by the Forest Settlement Officer for giving land compensation could not be given effect to. Therefore, writ petitioner sought for cash compensation. Learned Single Judge *vide* the order dated 23.04.1993 directed the Forest Settlement Officer as well as the Joint Collector of Mahabubnagar District to take up the matter in terms of Section 10 of the A.P.Forest Act, 1967 (briefly 'the Forest Act') and after

making enquiry, to pass necessary award for payment of cash compensation in *lieu* of land to the extent of Acs.293.05 guntas in Survey Nos.17 and 52 of Karkal Pahad Village. While the writ petitioner was directed to file his claim within one month, the authorities were directed to determine the compensation and to pay the same to the writ petitioner within six months thereafter.

7. Following the order of the learned Single Judge dated 23.04.1993 passed in W.P.No.12457 of 1992, award was passed by Forest Settlement Officer, Mahabubnagar on 20.10.1993. It was mentioned therein that the erstwhile Forest Settlement Officer, Hyderabad had passed an award on 22.02.1951 for payment of land to land compensation to an extent of Acs.300.00 guntas. Later on, it transpired that the land compensation could not be awarded as the same was under encroachment.

8. Be that as it may, after hearing the matter at length and on consideration of the materials on record, Forest Settlement Officer framed the following issues for consideration:

1. Whether the Forest Department was in possession of the land measuring Acs.942.26 guntas of Edvelli village from 1333F or 1349F as per the records filed ?
2. Whether petitioner is entitled for the rentals from 1333F to 1349F on the land measuring Acs.942.26 guntas in Survey No.46 of Edvelli Village ?
3. Whether benefits of forest produce on Acs.942.26 guntas in Survey No.46 of Edvelli Village along 03.05.1349F to 22.02.1951 (Esvi) ?
4. Whether the market value of the land as per Section 10 of Forest Act is to be determined on the prevailing rates on the date of Forest Notification or on the rates prevailing on the date of passing of award ?
5. Whether solatium, interest and additional market value as provided by the L.A.Act are payable ?

9. Forest Settlement Officer answered the above issues taking the view that writ petitioner could not prove that land admeasuring Acs.942.26 guntas belonging to him was taken over by the Forest Department. After thorough analysis of all aspects of the matter, Forest Settlement Officer passed the award hdated 20.10.1993 in the following manner:

1. The market value of the lands as fixed at Rs.25/- per acre is payable to an extent of land Ac.293.05 cents under Section 10 of the Forest Act as

directed in the judgment dated 23.04.1993 in W.P.No.12547 of 1992 of High Court, Hyderabad.

2. In addition to the market value, solatium at the rate of 30% on the amount of market value is payable under sub-section 2 of Section of L.A.Amendment Act.

3. Interest @ 4% is payable on the total amount of market value and solatium from the date of forest Notifiation i.e., 03.02.1939 to 30.04.1989 per annum as provided in the Section 34 of the Principal Act of Land Acquisition.

4. Interest @ 9% is payable on the market value and solatium per annum for one year from 01.05.1982 to 30.04.1983 as per provision under Section 34 of the Amended L.A.Act as clarified in CLR Lr.No.G1/4021/90 dt: 28.10.1991.

5. Interest @ 15% is payable on the market value and solatium per annum from 01.05.1983 to 31.10.1993 as per Section 34 of the Amended Act and per the clarification issued by the CLR in Lr.No.G1/4021/90 dt.28.10.1991.

6. Additional market value @ 12% on the total market value Rs.7,326.25 per annum for the period commencing from 01.05.1982 on which the Amended Act come in which additional market value is provided for payment.

So, the total cash compensation payable is worked out as follows:-

1	Market value of the land @ Rs.25/- per acre for 293.05 acres of land	7,326.25
2	30% solatium over the amount Rs.7,326.25	2,197.81
3	Total of market value including 30% solatium i.e., (1+2)	9,524.12
4	4% interest per annum on the amount of Rs.9,524.12 from 03.02.1939 to 30.04.1982 (43 years 2 months and 27 days)	16,475.08
5	9% interest on Rs.9,524.12 for one year from 01.05.1982 to 30.04.1983	857.17
6	15% interest on Rs.9,524.12 from 01.05.1983 to 31.10.1993 (10 years and 6 months)	15,000.51
7	12% additional market value per annum on Rs.7,326.25 the market value of the land extent 293.05 acres from 10.05.1982 to 31.10.1993 (11 years and 6 months)	10,110.23
8	Total compensation determined to be awarded for the land measuring 293.05 acres	51,967.11

Keeping in view of the above calculation in respect of market value 30% solatium, interest at 4%, 9% and 15% as admissible in the Principal and Amended L.A.Act and 12% additional market value over the market value of the total extent of land. I determined and awarded (Nine hundred sixty seven only) as total cash compensation to be paid to land owner Sri Syed Imaduddin, S/o Mir Mohiuddin, R/o Hyderabad in one installment.

The DFO Mahabubnagar, who is the respondent in this case is made responsible for making payment of the above said amount of Rs.51.967/- to the awardee on or before

31.10.1993 keeping in view of the direction of the  
High Court in W.P.No.12547/92 dated 23.04.1993.

10. Aggrieved by the award so passed, writ petitioner preferred appeal before the District Judge at Mahabubnagar under Section 13(10) of the Forest Act, which was registered as Forest Appeal No.1 of 1993.

11. After adverting to the rival pleadings and grounds urged, the Appellate Court formulated the following points for consideration:

1. Whether the market value taken by the Forest Settlement Officer is not correct ? and,
2. Whether the market values on the date the award has to be taken into consideration ?

12. Adverting to Section 10 of the Forest Act, it was pointed out by the Appellate Court that the Forest Settlement Officer had acquired the land in the manner provided by the Land Acquisition Act, 1894 (briefly the 'LA Act' hereinafter) and provisions thereof including Section 4 would apply *mutadis mutandis*. Appellate Court found from the record that



notification under Section 4(1) of the LA Act was issued in 1339 Falsi *i.e.*, in 1949. Therefore, for all intent and purpose, the proceedings had lapsed. However, the High Court had directed the Forest Settlement Officer to pass a fresh award. Recording the contention of the writ petitioner that he was holding land to the extent of Acs.942.25 guntas, it was pointed out that after enactment of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, not to speak of Acs.942.25 guntas, writ petitioner could not even hold land to the extent of Acs.293.05 guntas. Be that as it may, whatever be the extent of land, the same was taken over by the Government as per G.O.Ms.No.16 dated 03.05.1949.

13. Appellate Court further held that once notification under Section 4 of the LA Act was issued, the writ petitioner or his father ceased to be owners of the land so acquired. Market value had to be determined as on the date of issuance of notification under Section 4 of the LA Act. Upholding the award, Appellate

Court dismissed the appeal *vide* the order dated 24.10.1995. It was thereafter that W.P.No.12457 of 1992 came to be filed.

14. Learned Single Judge proceeded on the basis that the original pattadar- Syed Mir Mohiuddin held land to the extent of Acs.942.26 guntas in Survey No.46 of Edvelli Village, which was acquired by the Forest Department on 03.02.1949. Though an extent of Acs.293.05 guntas was given as land compensation, the same was not delivered to the pattadar; subsequent compensation paid was only for the said land. Therefore, learned Single Judge *vide* the order dated 02.04.2008 set aside the order of the Forest Settlement Officer dated 20.10.1993 as well as the order of the Appellate Court dated 24.10.1995 and directed the respondents to conduct an enquiry regarding payment of compensation for an extent of Acs.942.26 guntas and pass a fresh order in accordance with law.

15. We are afraid we cannot subscribe to the direction issued by the learned Single Judge.

16. From the materials on record, it is evident that the land acquisition proceedings had commenced by issuance of notification under Section 4(1) of the LA Act wayback on 03.02.1949 whereafter initial award was passed on 22.02.1951. After more than forty years and after death of the original pattadar, W.P.No.12547 of 1992 came to be filed before this Court. The said writ petition was disposed of by this Court *vide* the order dated 23.04.1993 by directing the Forest Settlement Officer to pass a fresh award and also pay cash compensation in lieu of land to the extent of Acs.293.05 guntas. Since this order has attained finality as the same was not appealed against, we express no opinion on the correctness or otherwise of the said direction.

17. Be that as it may, following such direction of this Court fresh award came to be passed by the Forest Settlement Officer on 20.10.1993. This award was assailed by the writ petitioner in appeal before the learned District Judge, Mahabubnagar in

Forest Appeal No.1 of 1993. By the judgment and order dated 24.10.1995, the appeal was dismissed.

18. We have already noted earlier that the related writ petition was filed under Article 226 of the Constitution of India. It is trite law that under Article 226 of the Constitution of India, the writ court would not issue a writ of certiorari for quashing a judicial order passed by a judicial authority. Power of judicial review is exercised in respect of orders or proceedings of administrative authorities or of quasi-judicial authorities like Tribunals *etc.* Proceedings before the District Court- whether original or appellate cannot be assailed in a writ proceeding under Article 226 of the Constitution of India.

19. That apart, forty-two years after the award was passed by the Forest Settlement Officer, learned Single Judge ought not to have directed the Forest Settlement Officer to conduct proceedings afresh and thereafter to pass award paying compensation for land to the extent of Acs.942.26 guntas. In our considered opinion, the said direction of the learned Single

Judge is wholly untenable and cannot be sustained both in law as well as on facts.

20. Accordingly, we set aside the order of the learned Single Judge dated 02.04.2008 passed in W.P.No.28504 of 1996. Consequently, W.P.No.28504 of 1996 is dismissed.

21. Writ Appeal is accordingly allowed. No costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

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**UJJAL BHUYAN, CJ**

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**N.TUKARAMJI, J**

**Date: 08.02.2023**  
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