

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

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**WRIT PETITION No.10208 OF 2010**

**Between:**

M/s. Yamuna Digital Electronics Private Limited

**...Petitioner**

**and**

The Special Deputy Collector (Land Acquisition)-cum-Revenue Divisional Officer, Sanga Reddy, Medak District

**...Respondent**

**JUDGMENT PRONOUNCED ON: 26.03.2024**

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE K.SARATH**

1. Whether Reporters of Local : Yes/No  
newspapers may be allowed to see  
the Judgment ?
2. Whether the copies of judgment : Yes/No  
may be marked to Law  
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No  
wish to see the fair copy of  
judgment

**JUSTICE K.SARATH**

**THE HON'BLE SRI JUSTICE K.SARATH**

**+WRIT PETITION NO.10208 of 2010**

%Dated 26.03.2024

# M/s. Yamuna Digital Electronics Private Limited

**...Petitioner**

**and**

\$ The Special Deputy Collector (Land Acquisition)-cum-Revenue  
Divisional Officer, Sanga Reddy, Medak District

**...Respondent**

! Counsel for Petitioner: Sri K.Goverdhan Reddy

^ Counsel for Respondent: Government Pleader for Land  
Acquisition

< GIST :

> HEAD NOTE :

**? Cases referred :**

**THE HONOURABLE SRI JUSTICE K.SARATH**

**WRIT PETITION No.10208 of 2010**

**ORDER:**

Heard learned counsel appearing for the petitioner and learned Government Pleader for Land Acquisition appearing for the respondent and perused the material on record.

**2.** Learned Counsel for the petitioner submits that the petitioner-Company is the absolute owner and possessor of land to an extent of 35 Guntas in Sy.Nos.449 and 450 situated at Patancheru Mandal, said Medak District. The respondent-authority have acquired the said land for laying a new broad-gauge railway line from Tellapur to Patancheru and passed award vide Proceedings No.B/6346/81, dated 18.09.1986. Thereafter, though the petitioner made application under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act') to refer the matter to the Civil Court for enhancement of the compensation on 04.11.1986, but, the respondent-authority have

referred the matter under Sections 30 and 31 of the Act, stating that the Andhra Pradesh Industrial Infrastructure Corporation (APIIC) has vested with the lands. The Civil Court passed order in O.P.No.265 of 1987, dated 15.12.1989 holding that the APIIC is entitled to receive the compensation against the claim of the petitioner.

**3.** Learned Counsel for the petitioner further submits that aggrieved by the said Judgment and Decree in O.P.No.265 of 1987, the petitioner preferred appeal before this Court in A.S.No.315 of 1990 and this Court allowed the said appeal on 09.06.2000 and declared that the petitioner was entitled to receive the compensation and the petitioner received the award amount while the petition filed under Section 18 of the Act remains pending. After the pronouncement of the Judgment in A.S.No.315 of 1990, the petitioner made several representations to the respondents to refer the matter to the Civil Court for enhancement of the

compensation amount under Section 18 of the Act, but the respondent did not take any action.

**4.** Learned Counsel for the petitioner further submits that the Civil Court awarded compensation for the acquired land under the same award at the rate of Rs.85/- per Sq.Yard and enhanced 30% in O.P.Nos.270 of 1987 to 272 of 1987, dated 03.11.1987. Aggrieved by the same, the respondent preferred appeal in A.S.Nos.2557 of 1989, 685 of 1989 and 1745 of 1992 before this Court and this Court dismissed the said appeals on 08.09.1992 by confirming the award of the Civil Court and the petitioner is entitled for the enhanced compensation on par with the other land losers. The application of the petitioner was not referred to the Civil Court for enhancement of the compensation and passed impugned orders. In view of the same, the petitioner approached this Court and filed the instant writ petition requesting to direct the respondent to refer the matter to the Civil Court under Section 18 of the Land Acquisition Act, 1894.

**5.** Learned Government Pleader appearing for the respondent basing on the counter averments submits that the petitioner had already filed an application under Section 28-A of the Act on 24.03.2003 with a request to re-determine the compensation as per the common Order and Decree passed in O.P.Nos.270 of 1987 to 272 of 1987, dated 03.11.1987 and the said application was rejected as barred by limitation. Now, after lapse of more than nine (9) years, the petitioner filed this writ petition seeking a direction to refer the matter to Civil Court under Section 18 of the Act in pursuance to his application dated 04.11.1986 and the award was passed on 18.09.1986. Therefore, the petitioner cannot seek reference under Section 18 of the Act after rejecting the application filed under Section 28-A of the Act and the writ petition is not maintainable and the same is devoid on merits.

**6.** After hearing both sides and perusing the record, this Court is of the considered view that admittedly the respondent-authority has acquired land of the

petitioner and the land acquisition award was passed on 18.09.1986. In view of the same, the petitioner filed application under Section 18 of the Act for referring the matter to the Civil Court for enhancement of the compensation on 04.11.1986. But, the respondent herein referred the matter to the Civil Court under Sections 30 and 31 of the Act as the then APIIC claimed the compensation since the lands vests with them and the same was numbered as O.P.No.265 of 1987 and the Civil Court held that the APIIC was entitled to receive the compensation vide order dated 15.12.1989. Against the said orders, the petitioner filed A.S.No.315 of 1990 before this Court and the Division Bench of this Court allowed the said appeal on 09.06.2000 and declared that the petitioner was entitled to receive the compensation amount. In view of the same, the petitioner-Company received the land acquisition compensation as per the award dated 18.09.1986. The writ petition is filed to direct the respondent to refer the matter under Section 18 of the

Act to Civil Court for enhancement of compensation as the application of the petitioner dated 04.11.1986 is still pending.

**7.** The Land Acquisition Officer while referring the matter under Sections 30 and 31 of the Act, the application filed by the petitioner under Section 18 of the Act was not considered. Only after disposal of A.S.No.315 of 1990, dated 09.06.2000, the petitioner has accrued the right for seeking enhancement of compensation. Therefore, the respondent-authority cannot deny the right of the petitioner under Section 18 of the Act on the ground that the application filed by the petitioner under Section 18 of the Act is barred by limitation. The Section 18 and Section 28-A are different and distinct in nature and the application of the petitioner under Section 28-A was rejected on the ground of delay but not on merits of the case. When the application of the petitioner under Section 18 of the Act is pending, the question of disposal of application under Section 28-A does not arise.



8. The respondent is not denying the application dated 04.11.1986 made by the petitioner under Section 18 of the Act and the respondent cannot deny the rights of the petitioner to approach this Court. In fact, the petitioner earlier approached this Court against the orders passed by the Civil Court in O.P.No.265 of 1987 and the same was disposed of by this Court in the year, 2000 and therefore, the respondent-authority has to pass appropriate orders on the application filed by the petitioner for referring the matter under Section 18 of the Act.

9. The Sections 18 and 28-A of the Land Acquisition Act, 1894 are as follows:

**“Section 18: Reference to Court**

(1) *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.*

(2) *The application shall state the grounds on which objection to the award is taken:*

*Provided that every such application shall be made,*

*(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collectors award;*

*(b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, Sub-Section (2), or within six months from the date of the Collectors award, whichever period shall first expire.*

**Section 28-A: Re-determination of the amount of compensation on the basis of the award of the Court**

*(1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court:*

*Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.*

*(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being*

*heard, and make an award determining the amount of compensation payable to the applicants.*

*(3) Any person who has not accepted the award under subsection (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18.”*

**10.** The above sections clearly shows that those who have not filed application under Section 18 of the Act can avail benefits under Section 28-A of the Act. In the instant case, the petitioner made application under Section 18 of the Act within time, but the same was not considered by the respondent. The petitioner has legitimate right to get enhancement of land acquisition compensation as per Section 18 of the Act. There is no denial by the respondent with regard to the application filed by the petitioner dated 04.11.1986. In the entire counter, the respondent not denied the application made by the petitioner dated 04.11.1986 for reference of the matter under Section 18 of the Act. In view of the same, the impugned action of the respondent is

arbitrary and illegal and the respondent has to refer the case of the petitioner under Section 18 of the Act basing on the application dated 04.11.1986.

**11.** In view of the above findings, the writ petition is allowed by directing the respondent to refer the matter in File Nos.B3/6346/81 and B3/2108/84 to the Competent Civil Court for enhancement of land acquisition compensation under Section 18 of the Land Acquisition Act, 1894 within three (3) months from the date of receipt of copy of this order. However, there shall be no order as to costs.

**12.** Miscellaneous petitions pending, if any, shall also stand closed.

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**JUSTICE K.SARATH**

**Date:** 26.03.2024

**Note: LR Copy to be marked**

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