

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

WRIT PETITION No.37623 OF 2018

Between:

Chetpelli Laxma Reddy and others

... **Petitioner**

And

State of Telangana & others

... **Respondents**

JUDGMENT PRONOUNCED ON: 03.06.2024

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

SUREPALLI NANDA, J

IN THE HIGH COURT OF TELANGANA AT HYDERABAD**WRIT PETITION No.37623 OF 2018****% 03.06.2024****Between:**

Chetpelli Laxma Reddy and others

... Petitioner**And**

\$ State of Telangana & others

... Respondents**< Gist:****> Head Note:**

! Counsel for the Petitioners

: Mr Ch.Ravi Kumar

^ Counsel for the Respondents

: G.P. for Land Acquisition

for R1, R4 and R7

G.P. for Irrigation and
Commercial Area

Development for R2

The Advocate General,
for R3G.P. for Revenue, for R5
and R6**? Cases Referred:**

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HON'BLE MRS. JUSTICE SUREPALLI NANDA

WRIT PETITION No.37623 OF 2018

ORDER:

Heard the learned counsel Sri Ch. Ravi Kumar, appearing on behalf of the petitioners, learned Government Pleader for Land Acquisition appearing on behalf of respondent Nos.1, 4 and 7, learned Government Pleader for Irrigation and Commercial Area Development for respondent No.2, learned Advocate General appearing on behalf of respondent No.3 and learned Government Pleader for Revenue appearing on behalf of respondent Nos.5 and 6.

2. The petitioner approached the court seeking prayer as under:

"...to issue a Writ of Mandamus declaring the action of the respondent authorities in proceeding to take away the possession of the lands of the petitioners and taking up construction works without completing the payment of compensation as well as Rehabilitation and Resettlement entitlements to the petitioners as required under the law, pursuant to declarations vide Proc.No.G/555/2017, dated 01.01.2017 and

16.05.2017 as illegal and unconstitutional and consequently direct the respondent authorities to immediately refer all the pending applications of the petitioners to the competent authority u/s. 64 of the Act 30 of 2013 and complete the provision of Rehabilitation and Resettlement entitlements as per the 2nd and 3rd Schedules of Act 30 of 2013 before taking possession and construction activities in the subject lands listed in declarations vide Proc.No.G/555/2017, dated 01.01.2017 and 16.05.2017 and pass..."

3. The case of the Petitioners in brief as per the averments made in the affidavit filed by the Petitioner in support of the present writ petition is as under :

a) The Petitioners herein are the land owners and farmers of Agricultural lands situated in Ananthagiri Village, Illanthakunta Mandal, Rajanna Siricilla District (Erstwhile Karimnagar District). Petitioners land had been acquired for construction of Ananthagiri reservoir under Kaleswaram Project Package Number 10 under 2 (Two) preliminary notifications issued under Section 11(1) of Act 30 of 2013, acquiring an extent of Ac.69.221/2 gts and Ac.257.37 gts vide respective notifications.

b) Pursuant to the issuance of the notifications, some of the petitioners had filed preliminary objections. The Authorities did not follow any mandatory procedures stipulated under Section 11(2), 11(5), 15 (2), 16, 17 and 18 of Act 30 of 2013.

c) Even the collector did not revise and update the market value of the lands before the issuance of notification under section 11(1) and without following any mandatory procedures, the impugned notifications vide Proc.No.G/555/2017, dated 01.01.2017 and 16.05.2017 were issued.

d) Petitioner owing to immense pressure and threats had to give away their lands and could not even challenge the procedural violations. However, the 12th petitioner herein had filed W.P. No. 2184 of 2018 challenging the procedural violations and when the said W.P is pending, respondents had passed the award and the 12th petitioner therein had to take the compensation under protest.

e) Petitioners made a representation to the authorities during the award enquiry and before passing of award, that the petitioners were not satisfied with the compensation

determined by the authorities along with other irregularities i.e., measurements of lands, structures etc.

f) But the authorities ignoring the representations of the petitioners had passed the award and the notices were issued u/s 37(2) and even some of the petitioners did not take the compensation but the other petitioners who have taken the compensation have taken it under protest.

g) Petitioners then made a representation to the Collector and land acquisition authorities for referring the matter to the competent authority u/s.64 seeking higher and proper compensation for petitioners' land and to resolve the issues but the only selective issues were referred to land acquisition officer.

h) The Authorities did not pass complete awards as required u/s.23, but have awarded compensation u/s. 30 of the Act and hence the intervention of authority u/s. 64 is required.

i) The petitioners herein are not paid any R&R entitlement and hence, the collector is barred from taking possession of the land of the petitioners' and despite the same, work had already begun in the

adjacent lands and in lands of some of the petitioners' and when the petitioners tried to stop the digging, authorities threatened to take police action. Even though the same has been brought to the notice of the collector, no action had been taken by the collector. Hence, this Writ Petition.

4. **PERUSED THE RECORD :**

a) **The relevant portion of the counter affidavit filed on behalf of Respondent Nos.5, 6 and 7, in particular relevant portion of para 5, and 6, 8, 9, 10, 12 read as under:**

"5....Further it is also to state that possession of the patta lands for an extent of Ac. 69.22 ½ Gts in Ananthagiri village and Ac.35.22 gts in Repaka village for which awards were passed and compensation was paid, had been taken over on 07.10.2017, 29-01-2018 & 29.12.2017 respectively, so as to complete the bund portion of Ananthagiri Reservoir. No attempts were made to dispossess the Petitioners or other awardees from their residential houses even though award compensation was paid to 599 structures. **As the construction of the said reservoir is under progress and lot of works are pending and there is no likelihood of storage of water immediately in**

the near future, as such the question of dispossession of the Writ Petitioners from the houses does not arise.

6. In reply to the averments made in paragraph-3 of the Petitioner's Affidavit, it is to state that, the Land Acquisition Authorities have not violated any of the procedures laid down under the Act. Grama Sabha was conducted on 11.01.2018 and the minutes were recorded and proposals under Rehabilitation & Resettlement under Act 30/2013, have also been sent to the Commissioner, R & R, T.S., Hyderabad and the same has been approved and **orders were issued by the Government vide G.O.Rt. No.1045, I &C AD [LARR/A2] Department, Dated: 25.08.2018 to provide required Rehabilitation & Resettlement facilities. Accordingly the Rehabilitation & Resettlement will be provided and after providing all the R&R entitlements to all the affected families only, the possession of the structures and adjacent land will be taken in terms of Section 38 of the Act.**

8. In reply to the averments Paragraph-5 of the Petitioner's Affidavit, it is to state that, as per the representations made by the petitioners the matter has been referred to the Land Acquisition & Rehabilitation & Resettlement Authority U/s 64 of the Act, vide Land Acquisition Officer and Revenue Divisional Officer,

Sircilla Division file No. A1/2441/2018, dated 9.11.2018. Copy of the said reference is filed herewith as Annexure - III.

9. In reply to the averments made in paragraph-6 of the Petitioner's Affidavit, it is to state that, as stated supra, **the matter has been referred U/s 64 of the act to the L.A. R&R Authority. Rehabilitation & Resettlement will be provided in terms of the Act 30 of 2013.** Options were given to the PDFs which are as under.

a) Out of (1135) PDFs 552 PDFs have given consent for the above

(b) Package provided under RFCTLARR Act, 2013 and 2016 Telangana Amendment Act. R&R. For those who have not given consent, R&R Package will be provided under RFCTLARR Act, 2013. After providing the said R&R entitlement, possession of the lands will be taken over. Previously possession of the lands has been taken over to the extent of compensation paid so as to complete the project work in the scheduled time. Enhanced compensation if any will be paid as ordered by the L.A. R&R Authority. **No coercive measures were initiated against the petitioners at any point of time.**

10. I state that following options were given to the Writ Petitioner to choose for R & R settlement.

Option No.	Entitlements Option given)	Entitlement as per the LA Act, 2013
I.	i) 2 BHK House to the	IAY House for each PDF in the

	House owner	family
	ii) Rs.7.50 lakhs to the House Owner	5,00,000/- onetime settlement 50,000/- Transportation 36,000/- Subsistence allowance 50,000/- Resettlement allowance <hr/> 6,36,000/- Total As per LA Act, 2013 Rs.6.36 lakhs is payable to each PDF in the family
	iii) 250 Sq. ydds for the other PDFs in the family other than the House Owner	75 sq. yards for each PDF in the family
II	i) Rs.12. 50 lakhs is to house owner. ii) 250 sq. yds plot for each PDF in the family.	As above
III	As per LA Act, 2013	As above

12. I state that, **presently project work is in the advance stage, and in view of the Interim orders passed by this Hon'ble Court on 12.10.2018 Project work has come to stand still and as a consequence of the same, Respondents are put to huge financial loss as the men and Machinery are kept idle.** Every day Respondents are loosing money on overhead expenses. Thus, it is just and necessary to vacate the interim orders dated 12.11.2018 in I.A. No 1 of 2018 in W.P.No.37623 of 2018.

DISCUSSION AND CONCLUSION:

5. On perusal of record it is evident that interim orders had been passed in favour of the petitioner on 12.10.2018 in I.A.No.1 of 2018 in W.P.No.37623 of 2018 and the same are extracted hereunder:

"Petitioners contend that no relief and rehabilitation benefits have been paid to them under Section 31 of the Act 30 of 2013 and that under Section 38, petitioners cannot be dispossessed till such payment.

Learned Government Pleader for Land Acquisition seeks time to get instructions.

Therefore, there shall be interim direction as prayed for."

The interim direction prayed for is extracted hereunder:

"To restrain the respondents from taking possession of their agricultural lands mentioned in the declarations issued on 01.01.2017 and 16.05.2017 under Section 19(1) of the Act and to restrain the respondents from taking up any further construction works in the said lands."

The said orders dated 12.10.2018 passed in I.A.No.1 of 2018 in W.P.No.37623 of 2018 are in force as on date.

6. It is pertinent to bring on record the observations of this Court dated 25.02.2021, in Contempt Case No.298 of 2020 filed by few of the petitioners in the present writ petition No.37623 of 2018 which has been filed complaining violation of the orders of this Court

dated 12.10.2018 in I.A.No.1 of 2018 in W.P.No.37623 of 2018, in particular, paras 28 to 37, read as under:

"28. In the additional counter affidavit filed by the 1st respondent he had given details of certain notifications issued for acquisition of residential houses in Anantagiri Village and Awards passed in relation thereto for compensation and Rehabilitation and Resettlement.

29. Again in page 5 of the said additional counter affidavit a false plea is raised that Rehabilitation and Resettlement Awards in respect of agricultural lands were also passed and amounts paid.

As pointed out above, the Special Government Pleader appearing for the Additional Advocate General is unable to show any document proving that Rehabilitation and Resettlement Awards under Section 31 for the agricultural lands of the petitioners which were acquired, were passed or that any payment in that regard was made to any of the petitioners.

30. The contents of the counter affidavits of respondents 2 and 3 are identical with those of the counter affidavit of the 1st respondent.

31. The plea therein that no attempts were made to dispossess the petitioners from their agricultural lands and residential houses is a false plea. No Award under Section 31 of the Act is shown to have been passed in respect of the agricultural lands of the petitioners which have been acquired.

32. The interim order passed by this Court on 12.10.2018 in I.A.No.1 of 2018 in W.P.No.37623 of 2018 restraining respondents from taking possession of the petitioners' agricultural lands continues to subsist and has not been vacated till date. The said direction would continue to operate unless vacated even if Rehabilitation and Resettlement Awards under Section 31A for agricultural lands of the petitioners which are acquired, are passed.

33. I hold that petitioners were dispossessed from their lands in October, 2019 itself and their lands were submerged as alleged in the Contempt Case and all the respondents have thus willfully disobeyed the order dt.12.10.2018 in L.A.No.1 of 2018 in W.P.No.37623 of 2018.

34. In this view of the matter, the Contempt Case is allowed; the respondents 1 to 3 are sentenced to simple imprisonment for three (3) months and fine of Rs.2,000/-. They shall also pay costs of Rs. 10,000/- to each of the petitioners within four (4) weeks.

35. The petitioners shall deposit subsistence allowance at Rs.200/- per day for each of the respondents within six (6) weeks. The sentence of imprisonment imposed on the respondents is suspended for six (6) weeks.

36. An adverse entry shall be recorded in the service records of respondents as regards their willful

disobedience of the orders dt. 12.10.2018 passed by this Court in I.A.No.1 of 2018 in W.P.No.37623 of 2018.

37. As a sequel, miscellaneous petitions pending if any in this, shall stand closed.

7. The Contempt Appeal Nos.5, 6 and 7 of 2021 have also been filed against the order dated 25.02.2021 passed in C.C.No.298 of 2020 and the Division Bench of this Court vide its order dated 21.04.2021 directed the Writ Petition itself to be disposed of finally observing that the entire issue would be resolved if writ petition No.37623 of 2018 is heard and disposed of on merits.

8. The prayer of the petitioner is to direct the respondent authorities to immediately refer all the pending applications of the petitioner to the competent authority under Section 64 of the Act 30 of 2013 and complete the provision of Rehabilitation and Resettlement Entitlement as per the 2nd and 3rd schedules of Act 30 of 2013 before taking possession and construction activities in the subject lands listed in the declaration vide proceeding No.G/555/2017 dated 01.01.2017 and 16.05.2017.

9. A bare perusal of para 9 and 10 of the counter affidavit indicates that in pursuance to the representations made by the petitioners the matter has been referred to the Land Acquisition and Rehabilitation and Resettlement Authority under Section 64 of the Act vide Land Acquisition Officer and Revenue Divisional Officer, Sircilla Division File No.A1/2441/2018 dated 09.11.2018 and further the options were given to the writ petitioner to choose for R&R Settlement, as per the practice provided under RFCTFARR Act, 2013 and 2016 Telangana Amendment Act.

10. The grievance of the few of the petitioners is that in spite of the interim orders of this Court dated 12.10.2018 in I.A.No.1 of 2018 in W.P.No.37623 of 2018 few of the petitioners had been dispossessed highhandedly. Paragraph 32 of the order dated 25.02.2021 passed in C.C.No.298 of 2020 reads as under:

"32. The interim order passed by this Court on 12.10.2018 in I.A.No.1 of 2018 in W.P.No.37623 of 2018 restraining respondents from taking possession of the petitioners' agricultural lands continues to subsist and has not been vacated till date. The said direction

would continue to operate unless vacated even if Rehabilitation and Resettlement Awards under Section 31A for agricultural lands of the petitioners which are acquired, are passed.”

11. A bare perusal of the averments made in the counter affidavit filed on behalf of respondent Nos.5, 6 and 7, in particular the relevant portion of para 5, 6, 8, 9, 10, 11 and 12 clearly indicates that the grievance of the petitioners had been addressed to by the official respondents herein in so far as few of the petitioners being dispossessed in violation of the orders of this Court dated 12.10.2018 in I.A.No.1 of 2018 in W.P.No.37623 of 2018, this Court in its order dated 25.02.2021 in Contempt Case No.298 of 2020 very clearly at para 32 observed that the interim directions granted in favour of the petitioners dated 12.10.2018 in I.A.No.1 of 2018 in W.P.No.37623 of 2018 continued to operate unless vacated even if Rehabilitation and Resettlement Awards under Section 31A had been passed in respect of the agricultural lands of the petitioners which had been acquired. The said observations had not been interfered even in the

Contempt Appeal Nos.5, 6 and 7 of 2021 filed by the official respondents herein aggrieved against the orders dated 25.02.2021 passed in C.C.No.298 of 2020.

12. A bare perusal of the averments made at 12 of the counter affidavit filed on behalf of the respondent Nos.5,6 and 7 clearly indicates that in view of the interim orders passed by this Court on 12.10.2018 project work has come to stand still.

13. A bare perusal of the record and the documents filed by the respondents herein does not indicate any payments made to any of the petitioners as observed by this Court at para 29 of its Judgment dated 25.02.2021 passed in C.C.No.298 of 2020, nor the counter affidavit filed by the official respondents in November, 2018 indicates the details of any such payment made except stating that options had been given to the petitioners to choose for R&R settlement. Hence, this Court opines that the petitioners are entitled for the relief as prayed for in the present writ petition.

14. **Taking into consideration:**

a) The aforesaid facts and circumstances of the case,

b) The interim orders of this Court dated 12.10.2018 in I.A.No.1 of 2018 in W.P.No.37623 of 2018 which are in force as on date (referred to and extracted above),

c) The observations of this Court dated 25.02.2021 passed in C.C.No.298 of 2020 (referred to and extracted above),

d) The averments made in the counter affidavit at paras 7, 8, 9 and 10 that matter has been referred as prayed for by the petitioners herein under Section 64 of the Act, vide Land Acquisition Officer and Revenue Divisional Officer, Sircilla Division File No.A1/2441/2018 dated 09.11.2018 and that options were given to the petitioners to choose R&R Settlement,

The writ petition is allowed as prayed for and the respondents are directed to complete and conclude the provisions of Rehabilitation and Resettlement entitlements as per the Second and Third schedules of Act 30 of 2013 in respect of the subject lands of the petitioners listed in declarations vide proceedings No.G/555/2017 dated 01.01.2017 and 16.05.2017,

duly taking into consideration the options as chosen by the petitioners for R&R Settlement as stated at para 10 of the counter affidavit, within a period of six (06) weeks from the date of receipt of a copy of this order. It is however observed that until and unless the Rehabilitation and Resettlement Settlements are finalized as per the Second and Third Schedules of Act 30 of 2013 in respect of the subject land listed in Declarations vide Proceedings No.G/555/2017 dated 01.01.2017 and 16.05.2017 and the benefits thereunder provided and actually released/paid to the petitioners herein, within the time stipulated by this Court, the respondents are directed not to dispossess petitioners from the petitioners agricultural lands. However there shall be no order as to costs.

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

SUREPALLI NANDA,J

Date: 03.06.2024

**Note: L.R.Copy to be marked
(B/o) Yvkr**