

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P. No. 15960 of 2023

Between:

P.Sreedhar Reddy and others

... Petitioners

And

The State of Telangana and others

... Respondents

JUDGMENT PRONOUNCED ON: 18.07.2023

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
marked to Law Reporters/Journals? : yes**
- 3. Whether Their Lordships wish to
see the fair copy of the Judgment? : yes**

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P. No. 15960 of 2023

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< Gist:

> Head Note:

! Counsel for the Petitioners : Mr V.M.M.Chary

^ Counsel for Respondents : G.P. for Land Acquisition

? Cases Referred:

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 15960 of 2023****ORDER:**

Heard learned counsel for the petitioners and learned Government Pleader for Land Acquisition.

2. This writ petition is filed to issue a writ, order or direction and more particularly one in the nature of writ of Mandamus declaring the action of the respondents 1 to 3 in not initiating the land acquisition proceedings as per the undertaking given in Contempt Case no.774 of 2013 and orders in WPMP.No.214 of 2013 in W.P.No.164 of 2013 by not paying compensation to the petitioners for the property admeasuring 1091 sq.yrds bearing premises no: 1-7-870(new) corresponding H.No 1-7-78(old) in Survey no: 1003 situated at Hunter Road, Subedari, Hanamkonda, Warangal which is forcibly taken more than 27 Years back for road widening without initiating proceedings under the Land Acquisition, despite various representations by the petitioners and correspondence from the respondents admitting to pay compensation or allot alternate land as per the provisions of The Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013 as illegal, arbitrary and unconstitutional, in total violation of the orders in Contempt Case no.774 of 2013 dated 27-01-2015 and WPMP.No.214 of 2013 in W.P.No. 164 of 2013 apart from being contrary to the principles of natural justice and in contravention of the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently direct the respondents to initiate the land acquisition proceedings and pay the just & adequate compensation to the petitioners as expeditiously as possible or allot the alternate land at Balasamudram beside Telangana State Pollution Control Board in lieu of compensation as agreed by the petitioner.

3. The case of the petitioners, in brief, is as follows:

a) The petitioner herein are the absolute owners and possessors of property admeasuring 2500 sq yards situated in premises No.1-7-870 (new) corresponding to H.No.1-7-87 (old) in Survey No.1003 situated at Hunter Road Subedari, Hanamkonda, Warangal having acquired the same by way of succession.

b) Originally, the petitioners' father late Sri P.Mruthyunjaya Reddy purchased the property admeasuring Ac.3.01 gts. in Survey No: 1003 situated at Hunter Road Subedari, Hanumakonda, Warangal in the name of his father late Sri.P.Ram Reddy by way of a registered sale deed in the year 1961. After purchase of the property Late Shri P.Mruthyunjaya Reddy constructed a house bearing No.1-7-870 (new) corresponding to H.No.1-7-78(old) in the name of his father late Sri Ram Reddy after duly obtaining permission from the erstwhile Warangal Municipality vide permit No. 532 dated 10/07/1964.

c) After the death of Sri Ram Reddy, his only son Sri P.Mruthyunjaya Reddy and grandsons i.e petitioners became the owners of the property by way of succession. Sri P.Mruthyunjaya Reddy died in the month of December, 1990 leaving his wife & sons i.e petitioners as the legal heirs, who indeed have become the absolute owners of the property.

d) Subsequently, petitioners sold part of the property and retained remaining property admeasuring 2500 sq.yds (approximately) along with the existing house.

e) During the life time of P.Mruthyunjaya Reddy in the year 1987 and 1989 the Kakatiya Urban Development Authority (KUDA) proposed to widen the existing 50 feet road to 100 feet road under the proposed master plan and issued letters to him & the petitioners informed that their property is required for the same and also asked to attend hearing. The notices dated 20-12-1987 & 08-04-1989 At that stage Kakatiya Urban Development Authority (KUDA) dropped the proposal for road widening due to paucity of funds.

f) Subsequently, in the year 1997, the Warangal Municipal Corporation issued a notice dated 30-01-1997 to the petitioners under Sections 405, 406 of the Hyderabad Municipal Corporation Act, 1955 alleging encroachment upon 100 feet road and purporting to demolish the compound wall, part of the house and other structures. Thereafter without even granting time for reply, the respondents high handedly demolished the compound wall, building and of as structures.

g) Challenging the said action, the petitioners approached this Hon'ble Court by way of a Writ Petition No. 5480 of 1997. In the said writ petition, Kakatiya Urban Development Authority (KUDA) contended that the proposal for road

widening was dropped. The said writ was allowed by this Court on 03.03.2003 while directing the Kakatiya Urban Development Authority (KUDA) and also Municipal Corporation, Warangal to either pass a consent award or to issue proceedings under Land Acquisition Act, accordingly, paying suitable compensation to the petitioners before road widening. This Court further directed to complete the whole exercise within four months

h) When there was no compliance either passing the consent award or land acquisition proceedings against the subject property the petitioners were constrained to file Contempt Case vide C.C No 1315 of 2003 before the High court and the said contempt is pending consideration.

i) After the contempt case was filed, the 2nd respondent herein initiated land acquisition proceedings on 10.09.2004 by issuing notification under Section 4 and under declaration dated 24.09.2004 under Section 6 dispensing with Section 5A enquiry invoking urgency clause under Section 17 of the Land Acquisition Act and proposed to acquire the petitioners' property admeasuring 817 sq.yds.

j) Immediately, the petitioners submitted a representation dated 16/10/2004 disputing the extent as 1100 sq.yds instead of 817 sq.yds and requested to acquire the actual extent, calculating compensation for the demolished portion and pay reasonable/justifiable compensation as per market value.

k). Thereafter, on 14.03.2005, the Revenue Divisional Officer, Warangal i.e. Respondent No. 3 issued letter to the Assistant Director, Survey and Land Records, Warangal informing that the actual extent of 1091 sq.yds of the petitioners' land is affected under land acquisition against notified extent of 817 sq.yds. Subsequently, another letter dated 28.05.2005 along with amendment of schedule was sent to the 3rd respondent by RDO informing that amendment to the draft declaration has to be published and requested to approve the same.

l). Subsequently, when there were no developments upon several requests and persuasion by the petitioners, the 3rd respondent herein sent a letter to the Revenue Divisional Officer, Warangal expressing regret for the delay in conducting the land acquisition proceedings and not paying compensation to the petitioners and directed to expedite the

further proceedings under the Act. Pursuant to which the Respondent No.4 /Revenue Divisional Officer, Warangal sent a letter dated 24.08.2009 to respondent No. 3/ District Collector expressing the inability to proceed further in view of lapse of two years as per Section 11A of the Act and also informed that the requisition authority has to give concurrence for the new amendment area which is to be notified. Thereafter, on the representation of petitioners, the 3rd respondent once again issued a letter dated 08.06.2011 to Revenue Divisional Officer directing to take approval from the Warangal Municipal Corporation since then the file of the petitioners stood as it is.

m) No further steps were taken for acquisition and payment of compensation on account of high handed action and cavalier attitude of the respondents, the petitioners herein were put to undue hardship and irreparable loss since 1997 without a rupee being paid as compensation and when the Roads & Buildings Dept, Warangal District on the directions of respondent No.3 were purporting to lay a cement concrete road/black Top road on the petitioners land without the land acquisition proceedings and without paying compensation to the petitioners were constrained to approach this Court once

again by way of W.P. No.164 of 2013. In the said Writ Petition interim orders dated 02.01.2013 in LA No. 214 of 2013 were passed by this Court directing the respondents that unless the petitioners land is handed over by the competent Authority that after acquisition the R&B was directed not to undertake any work on the petitioners' land.

n) Despite the above interim orders were passed by this Court in the presence of the counsels appearing for respondents and for R&B Department, the respondents herein in deliberate and wilful dis-obedience to the directions of this Court proceeded with the construction of road work and perpetuated the illegality causing indefinite loss to the petitioners. Aggrieved by the action thereof the petitioners filed contempt case before this Hon'ble Court vide Contempt Case No. 774 of 2013.

o) When the contempt case came for hearing before this Court on 27-01-2015 the GP for Land acquisition placed a letter bearing Rc.No. F/C/2001/2004, dated 23-01-2015 addressed by Respondent No. 4 to the Government Pleader wherein it was stated that the District Collector has convened

a meeting with the Commissioner, Warangal Municipal Corporation, Superintendent Engineer, R&B Warangal.

p) But no further steps were taken for acquisition and payment of compensation on account of high handed action and cavalier attitude of the respondents, the petitioners herein were put to undue hardship and irreparable loss since 1997 without a rupee being paid as compensation and when the Roads & buildings Dept, Warangal District, on the directions of respondent No.3 were purporting to lay a cement concrete road/black Top road on the petitioners land without the land acquisition proceedings and without paying compensation to the petitioners were constrained to approach this Court once again by way of W.P. No.164 of 2013. In the said Writ Petition interim orders dated 02-01-2013 in LA No. 214 of 2013 were passed by this Court directing the respondents that unless the petitioners land is handed over by the compete authority that after acquisition the R&B was directed not to undertake any work on the petitioners' land.

q) The above interim orders were passed by this Court in the presence of the counsels appearing for respondents and for R&B Dept, the respondents herein in deliberate and willful

dis-obedience to the directions of this Court proceeded with the construction of road work and perpetuated the illegality causing indefinite loss to the petitioners. Aggrieved by the action thereof, the petitioners filed contempt case before this Court vide Contempt Case No. 774 of 2013. When the contempt case came for hearing before this Hon'ble Court on 27-01-2015 the GP for Land acquisition placed a letter bearing Rc.No. F/C/2001/2004 dated 23-01-2015 addressed by the Respondent no. 4 to the Government Pleader stating that the District Collector has convened a meeting with the Commissioner, Warangal Municipal Corporation, Superintendent Engineer, R&B Warangal steps have been taken either to allot land or pay compensation initiating proceedings under 2013 Act. Various representations submitted by the petitioners.

r) Despite the undertaking letter submitted before Court and even when the petitioners agreed for alternate land at Balasamudram, Telangana State Pollution Control Board in lieu of compensation, the respondents have never taken steps either to allot the said land or pay compensation initiating proceedings under the Right to Fair compensation Act, 2013,

being vexed with the callous attitude of the respondents the petitioners got issued notices dated 13-04-2018. The petitioners have been deprived of legally entitle compensation for more than 27 years and the respondents are taking the grievances of the petitioners very casually without even showing scant respect to the orders of this Court time and again.

PERUSED THE RECORD

4. The order dated 02.01.2013 in W.P.M.P.No.214 of 2013 in W.P.No.164 of 2013 is as under:

“The petitioners have furnished the particulars of proceedings that ensued in respect of their lands. W.P.No.5480 of 1997 was filed, when the Municipal Corporation demolished part of their properties for the purpose of widening of the road. The writ petition was allowed on 03-03-2003, leaving it open to the Corporation to acquire the effective portion. Notifications were issued under the Land Acquisition Act in the year 2004, but they lapsed, on account of the fact that awards were not passed. As recently as in the year 2009, the Revenue Divisional Officer addressed a letter to the District Collector to issue revised notifications. No further steps have taken thereon. The petitioners complain that the respondents 2 and 3 are trying to lay road upon their property.

Learned Government Pleader, instructions from the 3rd on respondent, submits that the existing road is being strengthened. However, unless the area is handed over by the competent authority, that too, after acquisition, as directed by this Court, respondents 2 and 3 cannot undertake any work upon the land.”

5. The undertaking given in contempt Case No.774 of 2013 and the relevant portion of the order dated 27.01.2015 passed in C.C.No.774 of 2013 is extracted hereunder:

“Today when the matter is taken up, letter bearing Rc.No.F/C/2001/2004 dated 23.01.2015 addressed by the Revenue Divisional Officer, Warangal to the office of the Government Pleader is placed on record by the Government Pleader, wherein it is stated that the District Collector, Warangal has convened a meeting on 19.01.2015 with the Commissioner, Warangal Municipal Corporation, Warangal, Superintendent Engineer R & B Warangal, Land Acquisition Officer & Revenue Divisional Officer, Warangal along with petitioners and issued instructions to settle the land compensation to the petitioners either by way of private negotiations or by way of passing of award as per the Land Acquisition Act within a period of three(03) months and the process is in progress.

6. The last para of the letter of the District Collector Warangal addressed to the Principal Secretary, T, R and

B, Department, Secretariat, Hyderabad vide letter No.7221/T1/DEE/SEW/2015-16, dated 13.02.2016, reads as under:

“In view of the above, it is requested the Government to kindly accord permission to the undersigned to allot vacant Government land to the extent of Land Acquisition cost admissible to the petitioners in the above case so that the above court case is settled once for all and widening of the Hunter road in the disputed land may be taken up and completed for smooth vehicular flow without any bottlenecks.”

7. The last para of letter of the District Collector (Additional Charge) Warangal, addressed to the petitioner herein vide letter No.7221/T1/DEE/SEW/2015-16, dated 20.03.2016, reads as under:

“Accordingly, the Principal Secretary to Government Revenue Department and Transport Roads & Buildings Department were addressed vide this office Lr.No.7221/T1/DEE/SEW/2015-16 dated 13.02.2016 for obtaining Governments permission to allot Government land to the extent of Land acquisition cost admissible and the same is under constant persuasion and the land will be allotted to you soon after obtaining the Governments permission.

8. The 2nd para of the letter dated 29.03.2016 vide D.O. Lr No.7221/T1/DEE/SEW/2015-16 of the Collector and District Magistrate, reads as under:

“As already submitted the petitioners have filed Contempt Case vide C C No 774 of 2013 against the then SE(R&B). EE(R&B) and District Collector, Warangal for not complying with the orders of the Hon'ble High court in WPMP No 214 of 2013 in WP No 164 of 2013 and the Hon'ble High Court vide orders dated 07-01-2015 closed the contempt case No 774 of 2013 on Government Pleaders submission based on the Revenue Divisional Officer, Warangal letter bearing Rc No F/C/2001/2004 dated 23.01.2015 that District Collector, Warangal issued instructions to the concerned to settle the land compensation to the petitioners either by way of private negotiations or by way of passing of award as per the Land Acquisition Act.”

9. The last para of the letter dated 20.03.2017 vide Rc.No.E1/E2/3624/2016 of the District Collector, Warangal to the Revenue Divisional Officer, Warangal Urban, reads as under:

“Further informed that the Revenue Divisional Officer, Warangal Urban is requested to identify the Government land at least (3) places with the equal or more or less with the value of the patta land and show

the lands to the applicants and finalize the issue and send a detailed report along with location sketches, full shape proposals as directed by the Collector, Warangal Urban immediately for taking further action in this regard.”

10. The last para of the letter Rc.No.D/F/2001-2004 dated 28.04.2017 of the RDO, Warangal *Urban) addressed to the Tahsildar, Hanmakonda, Kazipet, Khila Warangal, Hasanparthy Mandal, reads as under:

“In view of the above the above Tahsildars are requested to identify the Govt land at least three[3]places with the equal or more or less with the value of the patta land and show the land to the applicant and finalize the issue and send a detailed report along with location sketches in full shape for submission of proposals to the District Collector, Warangal (urban) as desired.”

11. Letter dated 04.05.2009 vide Rc.No.G1/4860/2004 of the Collector, Warangal addressed to the Revenue Divisional Officer, Warangal, reads as under:

“With references to the above letters shall be considered. As per the amended Land Acquisition as per

the Sub Division Records extended from 817 sq. yards to 1091 sq. yards. with the permission of Municipal Commissioner for the approval of the Notification and Declaration amendment proposals I will send it immediately. Kindly oblige in the delay happened in this regard. As per the directions of the/ orders of the Hon'ble High Court in W.P.No.5488/1997 dated 17.11.2004 to pay the Compensation in this case to the petitioners as on January, 22005. But no action was initiated it is very sad. Hence take immediate steps in this regard.”

12. Letter dated 08.06.2011 vide Rc.No.G1/4860/2004 of the District Collector, Warangal addressed to the Revenue Divisional Officer, Warangal, reads as under:

“I invite your attention to the reference 3rd and 5th cited, wherein you were requested to obtain the concurrence for the area coming under acquisition from the Municipal Commissioner, Warangal as per the revised SDR and submit the amendment proposals for DN & DD. But, the proposals are still awaited from you. Therefore, I request you to look into the matter personally, obtain the concurrence from the requisition department and submit amendment proposals as called for in the reference 3rd cited without further delay as there is contempt case filed in the matter.”

DISCUSSION AND CONCLUSION:

13. A bare perusal of all the relevant portions of the various letters and correspondence of the concerned officials i.e., respondent authority (referred to and extracted above) clearly indicates that in spite of the clear undertaking given in Contempt Case No.774 of 2013 and order in W.P.M.P.No.214 of 2013 in W.P.No.164 of 2013 the respondents 1 to 3 are not paying compensation to the petitioners for the property admeasuring 1091 sq. Yards bearing premises No.1-7-870 (new) corresponding H.No.1-7-78 (old) in survey No.1003 situated at Hunter Road, Subedari, Hanamkonda, Warangal which is forcibly taken more than 27 years back from the petitioners for road widening without initiating proceedings under the Land Acquisition, despite various representations by the petitioners and correspondence from the respondents admitting to pay compensation or allot alternate land as per the Provisions of Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation Act, 2013.

14. Learned Government Pleader for Land Acquisition fairly submits that delay occurred due to the petitioner not impleading the Requisition Department and accordingly the petitioners herein filed I.A.No.2 of 2023 in W.P.No.15960 of 2023 seeking impleadment of the Superintending Engineer, Roads and Buildings, Warangal District, Warangal and the same had been ordered as prayed for.

15. The learned Government Pleader for Land Acquisition further fairly submits that the respondent, would initiate Land Acquisition Proceedings in respect of the petitioners subject land and conclude the same by passing Award and paying compensation to the petitioners within a period of six months duly complying with the earlier orders of this Court passed in favour of the petitioners herein.

16. A bare perusal of the record indicates that a Note dated 10.04.2015 vide Rc.No.F/2001/2004 had been

issued to the petitioners by the Land Acquisition Officer and Revenue Divisional Officer under Section (21) and Sub Section (1) to (5) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation Act, 2013, the LAO and RDO Warangal calling upon the petitioners, to put in a statement in writing and the petitioners in fact vide their reply dated 25.04.2015 which had been acknowledgment by the RDO, Warangal specifically pointed out to the respondent authority that it has been admitted in the letter Rc.No.F/2001/2004 dated 23.01.2015, which is placed on the record of Hon'ble High Court in CC No.774/2015 that the District Collector, Warangal (LA) has instructed to obtain concurrence for 1091 square yards area effected under road widening as per the revised sub-division record from Warangal Municipal Corporation and the petitioners further requested to issue fresh notice duly incorporating the amended extent of 1091 square yards per the revised Sub-division record instead of extent of 817 square yards as

indicated in the notice Rc.No.F/2001/2004 dated 10.04.2015 of the 4th respondent.

17. Taking into consideration the submissions made by the learned Government Pleader for Land Acquisition and duly considering the earlier orders of this Court passed in favour of the petitioner in C.C.No.774 of 2013 dated 27.01.2015 and the orders dated 02.01.2013 passed in W.P.M.P.No.214 of 2013 in W.P.No.164 of 2013 and the entire correspondence since 2013 on record, the Writ Petition is allowed directing the respondents to initiate the Land Acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and conclude the same, by passing an Award and paying compensation to the petitioners in accordance to law, as per the rules in force as on date in respect of petitioners property admeasuring 1091 sq. Yards in premises No.1-7-870 (new) corresponding H.No.1-7-78 (old) in survey No.1003 situated at Hunter Road, Subedari,

Hanamkonda, Warangal within a period of six (06) months from the date of receipt of a copy of this Order.

18. With the above observations, the writ petition is allowed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Date: 18.07.2023

Note: L.R. copy to be marked
b/o
kvrn