

APHC010717212015



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3163]

FRIDAY, THE THIRTIETH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

WRIT PETITION NO: 26202/2015

Between:

- 1.G. VENKATA RAMA CHANDRA RAJU,, S/O RAMA KRISHNAM RAJU
AGED ABOUT 48 YEARS, OCC: AGRICULTURE, R/O CHINAMIRAM,
BHIMAVARAM MANDAL, WEST GODAVARI DISTRICT
- 2.G. PURUSHOTHAMA RAJU,, S/O RAMA KRISHNAM RAJU AGED
ABOUT 44 YEARS, OCC: AGRICULTURE, R/O CHINAMIRAM,
BHIMAVARAM MANDAL, WEST GODAVARI DISTRICT
- 3.G. NAGAMANI,, W/O VENKATA SRI RAMA RAJU, AGED ABOUT 40
YEARS OCC: AGRICULTURE, R/O CHINAMIRAM, BHIMAVARAM
MANDAL, WEST GODAVARI DISTRICT
- 4.G. PADMA PRATYUSHAPALLAVI,, D/O VENKATA SRI RAMA RAJU
AGED ABOUT 23 YEARS, OCC: AGRICULTURE, R/O CHINAMIRAM,
BHIMAVARAM MANDAL, WEST GODAVARI DISTRICT
- 5.G. ANASUYAMMA,, W/O RAMA KRISHNAM RAJU AGED ABOUT 60
YEARS, OCC: AGRICULTURE, R/O CHINAMIRAM, BHIMAVARAM
MANDAL, WEST GODAVARI DISTRICT
- 6.G. UDAY KIRAN VARMA,, S/O VENKATA RAMA CHANDRA RAJU
AGED ABOUT 24 YEARS, OCC: AGRICULTURE, R/O CHINAMIRAM,
BHIMAVARAM MANDAL, WEST GODAVARI DISTRICT

...PETITIONER(S)

AND

1. THE DISTRICT COLLECTOR, WEST GODAVARI, ELURU
2. THE LAND ACQUISITION OFFICER AND REVENUE DIVISIONAL OFFICER, NARSAPUR, WEST GODAVARI DISTRICT
3. STATE OF ANDHRA PRADESH REP BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT, SECRETARIAT BUILDINGS, HYDERABAD

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or Order or Direction more in the nature of Writ of Mandamus or any other appropriate order by declaring the action of the second respondent in passing award in ROC.No. 2863/2008/B, award No.4/2015-16 dt. 16.06.2015, as illegal, arbitrary, violative of Sections 9, 10 and 11 of Act 1 of 1894/Sections 21, 22 and 23 of Act 30 of 2013 and set aside the same

IA NO: 1 OF 2015(WPMP 34041 OF 2015)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the award passed by the second respondent in ROC.No. 2863/2008/8, award No.4/2015-16 dt. 16.06.2015, pending disposal the above writ petition

IA NO: 1 OF 2016(WPMP 29707 OF 2016)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit the petitioners to raise additional grounds in the writ petition

IA NO: 2 OF 2016(WPMP 29708 OF 2016)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents not to interfere with the cultivation of the agriculture lands in Sy.NOs. 172/1,172/2,172/4,172/5 and 172/6 to Ac.9.34 cents by the petitioners, pending disposal of the writ petition

Counsel for the Petitioner(S):

1.O M R LAW FIRM

Counsel for the Respondent(S):

1.GP FOR REVENUE (AP)

2.GP FOR LAND ACQUISITION (AP)

The Court made the following:

ORDER:

This writ petition for a Mandamus is filed to declare the action of respondent No.2 in passing the award dated 16.06.2015 bearing ROC.No.2863/2008/B, Award No.4/2015-16 as illegal and violative of Sections 9, 10 and 11 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act 1 of 1894') and Sections 21, 22 and 23 of Act 30 of 2013 and to set aside the same.

2. Heard Sri O.Manohar Reddy, learned Senior Counsel for the petitioners and learned Government Pleader for Revenue for the respondents.

3. The case of the writ petitioners lie on a narrow compass and may be stated as follows:

The petitioners are all agriculturists and they are the owners of the lands situated in Chinamiram Village of Bhimavaram Mandal. The 1st respondent has issued a notification dated 27.06.2012 under Section 4(1) of Act 1 of 1894 to acquire the lands of the petitioners covered by Sy.Nos.172/1, 2, 4, 5 and 6 in an extent of Ac.9.34 cents for the public purpose of providing house sites to houseless poor under "Indiramma Housing Scheme". The declaration under Section 6 of Act 1 of 1894 was issued by respondent No.1 on 14.06.2013. It was also published in the daily newspaper in the locality. It is stated that without following Section 8 of Act 1 of 1894, that the 2nd respondent has issued notice under Sections 9(3) and 10 of Act 1 of 1894 and that the 2nd respondent has not followed the procedure prescribed in Section 9(1) and (2) of Act 1 of 1894 before issuing Section 9(3) notice. While so, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'Act 30 of 2013') came into force with effect from 01.01.2014.

4. It is the case of the petitioners that as per Section 24 of Act 30 of 2013, where no award under Section 11 of the Land Acquisition Act has been made, then the provisions relating to determination of compensation of the said Act shall apply and where an award under Section 11 of the Land Acquisition Act has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed and if the award was not made as on date of the new Act coming into force, that the award shall be passed within 12 months from 01.01.2014. As the award was passed beyond the said period of 12 months on 16.06.2015, it is the case of the petitioners that the said award stands lapsed and it is not valid under law. Therefore, on the said ground, the petitioners prayed to declare the said award passed by the 2nd respondent as illegal and to set aside the same.

5. The respondents have filed their counter opposing the prayer of the petitioners. In para 7 of the counter filed by the 2nd respondent-Land Acquisition Officer, it is admitted that the award was passed on 16.06.2015 after the advent of the new Act 30 of 2013. It is pleaded that as the evidence relating to the said acquisition of the land was recorded, as the petitioners did not produce any documents relating to the title after issuance of notice under Section 9 of Act 1 of 1894, that it took time to pass the award and as such, the award was passed on 16.06.2015. Therefore, it is prayed to dismiss the writ petition.

6. It is also pleaded that the compensation amount was deposited before the civil Court as contemplated under Section 31 of Act 1 of 1894.

7. Admittedly, the notification for acquiring the lands was issued under the earlier Act 1 of 1894 on 12.07.2012. Thereafter, declaration under Section 6 of Act 1 of 1894 was given on 27.06.2013. But the award was not passed under the old Act. During the pendency of the said proceedings, the new Act i.e. Act 30 of 2013 has come into force. The old Act stood repealed by the

new Act. Section 24 of Act 30 of 2013 is relevant in the context to consider to drive home the point involved in the writ petition. Section 24 of Act 30 of 2013 mandates that notwithstanding anything contained in the new Act, in any case, the land acquisition proceedings are initiated under the old Act i.e. Act 1 of 1894, that where no award under Section 11 of the old Act has been passed, then all the provisions of the new Act relating to determination of the compensation shall apply or where the award under Section 11 has been made, then such proceedings shall continue under the provisions of the old Act as if the said Act has not been repealed. In other words, if the award was already passed under the old Act by the date on which the new Act came into force, the award will be saved and the compensation has to be determined as per the old Act. Section 25 of Act 30 of 2013 further mandates that if the award under the old Act was not passed, the award under the new Act has to be passed within a period of 12 months from the date on which the new Act came into force i.e. from 01.01.2014. So, as no award was passed under the old Act in the present case, the award under the new Act has to be passed on or before 31.12.2014 being the 12 months period prescribed under the new Act.

8. Admittedly, in the instant case, the award was not passed within the said period of 12 months by 31.12.2014. The award in the instant case was passed on 16.06.2015 beyond the said prescribed period of 12 months. Although, the delay is explained in the counter stating that as the petitioners did not produce their documents in proof of their title after the notification was issued, that the award could not be passed within the said period of 12 months, the said explanation cannot be accepted as nothing is provided in the new Act to save the said award on the ground that the award could not be passed on account of the delay committed by the petitioners in submitting their documents in proof of their title. Although power is conferred on the District Collector to extend the period by 90 days under Section 19 of new Act, there is nothing to indicate from the pleadings as can be seen from the

counter filed by the respondents, that the District Collector has extended the period by 90 days. Even if the said period of 90 days is calculated, it stands expired by 31.03.2015. So, the award in question which was passed on 16.06.2015 has been obviously passed beyond the said statutory period of time prescribed under the new Act.

9. The Apex Court had an occasion to deal with the effect of the amended provisions in the case of ***Executive Engineer, Gosikhurd Project Ambadi, Bhandara, Maharashtra Vidarbha Irrigation Development Corporation v. Mahesh and others***¹. It is held in the said judgment that as the acquisition proceedings initiated under Sections 4 and 6 of the 1894 Act did not culminate in an award on the date of coming into force of 2013 Act on 01.01.2014, subsequent awards passed beyond the period prescribed under the new Act, are not valid.

At para 31 of the Judgment, the Apex Court held as follows:

“Consequently, we hold that in cases covered by clause (a) to Section 24(1) of the 2013 Act, the limitation period for passing/making of an award under Section 25 of the 2013 Act would commence from 1-1-2014, that is, the date when the 2013 Act came into force. Awards passed under clause (a) to Section 24(1) would be valid if made within twelve months from 1-1-2014.”

10. Therefore, as noticed supra, as the impugned award in this case was admittedly passed on 16.06.2015 beyond the period of 12 months prescribed under the new Act, the impugned award is not valid under law and it is liable to be set aside.

11. Resultantly, the Writ Petition is allowed. The impugned award dated 16.06.2015 in ROC.No.2863/2008/B, Award No.4/2015-16, which was passed beyond the prescribed period of limitation contemplated under the new Act 30 of 2013 is hereby set aside. There shall be no order as to costs.

¹ (2022) 2 Supreme Court Cases 772

Pending applications, if any, shall stand closed.

CHEEKATI MANAVENDRANATH ROY, J.

Date: 30.01.2026

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86

HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

WRIT PETITION NO: 26202/2015

Date: 30.01.2026

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