

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

MONDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 16177 OF 2024

Between:

Jupalli Andalu, W/o late Jupalli Nagaiah aged about 36 years Occ Agriculture
R/o No. 1-92, Gajwel Mandalam Datarpalle, Medak district.

...PETITIONER

AND

1. The State of Telangana, Rep by its Principal Secretary Land Acquisition (Revenue) Department Secretariat, Hyderabad.
2. The District Collector, Siddipet District,
3. The Revenue Divisional Officer Gajwel Mandal, Siddipet Dist,
4. The Land Acquisition Officer cum Special Deputy Collector, Unit-III, Dr.BR Ambedkar PCSSP Siddipet, Medak Dist.
5. Mirza Sameulla Baig, C/o Mirza Habeeb BaL, R/o No, 18-12-418/C/33/1.Age Not Known the Petitioner, Hafezbaba Nagar, Bandlaguda, Hyderabad.
6. Jupalli Narsamma, W/o Jupalli Venkataiah, Age Not Known the Petitioner yrs, R/o No. 1-13, Datarpalli village, Gajwel Mandal Siddipet Dist

...RESPONDENTS

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 writ order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents-1 to 4 in not handing over the balance of land to an extent of Ac.O. 30gts in Sy.No. 33/E situated at Datarpalli village, Gajwel Mandal, Siddipet district which remained unutilized pursuant to the Land Acquisition Proceedings to the petitioner duly considering the representation dated 4-11-2023 made by the petitioner as illegal, arbitrary, unjust, unreasonable, contrary to law and contrary to principles of natural justice and consequently direct the respondents-1 to 4 to consider the representation made by the petitioner dated 4-11-2023 and also direct the respondents-2 to 4 not to allow any encroachments into the land by the respondents-5 and 6 till the representation of the petitioner dated 4-11-2023 is considered by the respondents-2 to 4 in respect of the land to an extent of Ac.O. 30gts in Sy.No. 33/E situated at Datarpalli village, Gajwel

Mandal, Siddipet district to the petitioner as the petitioner is ready to pay the amount for the same.

IA NO: 1 OF 2024

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-1 to 4 to consider the representation made by the petitioner dated 4-11-2023 in the interest of justice pending disposal of the above writ petition.

Counsel for the Petitioner: SRI D.RAMAKRISHNA

Counsel for the Respondent Nos.1 TO 4: GP FOR LAND ACQUISITION

Counsel for the Respondent Nos.5 & 6: --

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION No.16177 OF 2024

ORDER:

Heard learned Counsel for the petitioner, learned Government Pleader for Land Acquisition appearing for respondent Nos.1 to 4 and with the consent of learned Counsel appearing for the parties, the Writ Petition is taken up for hearing and disposal at the stage of admission.

2. Having regard to the nature of *lis* involved and manner of disposal of the Writ Petition, this Court is of the view that notice to unofficial respondents is not necessary for adjudication of the present Writ Petition.

3. The case of the petitioner, in brief, is that the land of the petitioner to an extent of Ac.1.08 gts in Sy. No.33/E situated at Datarpalli village, Gazwel Mandal, Siddipet District has been acquired for the purpose of excavation of Gravity Canal of Pranahitha Chevella Srujala Sravanthi Project Package-14 Main Canal Reach from KM.0.250 to KM.2.150 situated in the limits of Datharpally village, Gazwel Mandal of Medak District in the year 2012; that the respondent authorities have also paid compensation in an amount of Rs.5,74,800/-; and that out of

the said land acquired by the respondents, land to an extent of only Ac.0.18 Gts. was utilized for the Canal purpose; that balance land of Ac.0.30 Gts. was not utilized for the purpose it was acquired; that the husband of the petitioner during his life time was cultivating the same; and that after the demise of the petitioner husband on 15.11.2017, the petitioner's family has been cultivating the said land.

4. Petitioner further contends that since the respondent though had acquired the land of Ac.1.08 gts. having utilized only Ac.0.18 gts. and the remaining 30 gts. being unutilized, the petitioner approached the respondent authorities and submitted representation dated 04.11.2023 requesting to handover the unutilised land to an extent of Ac.0.30 Gts. by expressing her readiness to pay the amount towards Ac.0.30 Gts. of land; and that inspite of the petitioner submitting the aforesaid representation, no action has been taken thereon.

5. *Per contra*, learned Government Pleader appearing on behalf of respondents on the other hand submits that under the Land Acquisition Act, 1894 (for short 1894 Act') there is no provision akin to Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act) Act, 2013 (Act 30 of 2013) whereby unutilized land acquired can be returned to the land owner, legal heirs or transfer to the land bank of the appropriate Government.

6. On the other hand, learned Government Pleader submits that on the authorities initiating acquisition proceedings under 1894 Act have paid the compensation, thus, the said land vested with the Government and, as such, the petitioner cannot seek return of the land on the ground of the same being unutilised by the requisition authority.

7. I have taken note of the respective contentions urged.

8. Though under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act) Act, 2013 (Act 30 of 2013) the provision is made for return of unutilized land, admittedly no such similar provision exists in the 1894 Act. In the facts of the case, since the land of the petitioner was acquired prior to enactment of Act, 30 of 2013, the only saving provided for return of the land is under sub-section 2 of Section 24 of Act 30 of 2013 which contemplates return of the land only in two contingencies viz., non payment of compensation and physical possession not

being taken pursuant to an Award within a period of two years from passing of the Act 30 of 2013.

9. Admittedly in the facts of the present case, none of the two contingencies as provided under Section 24 of Act 30 of 2013 are attracted for the petitioner to claim resumption of the land.

10. In a similar circumstance the Division of the High Court of Bombay in **Arvind Tukaram Pandage v. State of Maharashtra**¹ while analyzing the provision of Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) by referring to the decision of the Hon'ble Supreme Court in the case of **Indore Development Authority v. Manoharlal**² had held that the provision of Section 101 of Act 30 of 2013 cannot be applied to the acquisitions made under 1894 Act.

11. The Division Bench of Bombay High Court further held that in view of the decision by the Constitution Bench specifically limiting the scope of Section 101 to the acquisitions

¹ Order in W.P. No. 14794 of 2019 dated 19.01.2023

² (2020) 8 SCC 129

under the new Act, the same cannot be made applicable insofar as the acquisitions made under the Act of 1894.

12. Since the lands of the petitioner having been acquired under 1894 Act, the law as enunciated by the Hon'ble Supreme Court in **Indore Development Authority** (case supra) as explained by the Division Bench of Bombay High Court in **Arvind Tukaram Pandage** (case supra) would apply in all force to the facts of the present Case.

13. In view of the above, the present Writ Petition is without merit and is, accordingly, dismissed. No costs.

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

SD/- L. LAKSHMI BABU
ASSISTANT REGISTRAR
SECTION OFFICER

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To

1. The Principal Secretary Land Acquisition (Revenue) Department Secretariat, Hyderabad, State of Telangana.
2. The District Collector, Siddipet District,
3. The Revenue Divisional Officer Gajwel Mandal, Siddipet Dist,
4. The Land Acquisition Officer cum Special Deputy Collector, Unit-III, Dr.BR Ambedkar PCSSP Siddipet, Medak Dist.
5. One CC to SRI D.RAMAKRISHNA, Advocate [OPUC]
6. Two CCs to GP FOR LAND ACQUISITION, High Court for the State of Telangana, at Hyderabad. [OUT]
7. Two CD Copies

PSK.
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HIGH COURT

DATED:28/10/2024

ORDER

WP.No.16177 of 2024

DISMISSING THE WRIT PETITION
WITHOUT COSTS.

PA
12/11/24
Copies

