

(1990) 11 AP CK 0007

In the Andhra Pradesh High Court

Case No : Writ Petition No. 12742 of 1990

Attili Narayana Rao

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 06-11-1990

Acts Referred:

Constitution of India, 1950 — Article 226

Requisitioning and Acquisition of Immovable Property Act, 1952 — Section 22, 9

Requisitioning and Acquisition of Immovable Property Rules, 1953 — Rule 10(5), 10(6)

Citation : (1991) 1 ALT 400

Hon'ble Judges : Radhakrishna Rao, J

Bench : Single Bench

Advocate : Sanka Venkateswara Rao, for the Appellant; The Govt. Pleader for H.M.A., for the Respondent

Judgement

Radhakrishna Rao, J.—This writ petition is filed for the issue of a writ of Mandamus directing the respondents to pay enhanced compensation as per the judgment and decree of this court in CMA No. 1077 of 87 dated 26th July, 1989.

2. The Arbitrator-cum-District and Sessions Judge, Visakhapatnam passed an award dated 10-3-1987 fixing the compensation at Rs. 15/- per Sq. Yard for the lands acquired under the Requisitioning and Acquisition of Immovable Property Act, 1952 ("the Act" for brevity). Being dissatisfied with the said Award of compensation, the claimant filed CMA No. 1077 of 1987 in this court and a learned single judge of this court allowed the appeal in part and enhanced the compensation to Rs. 20/- per sq. yard. After the said Judgment of this Court, the claimant approached the Competent Authority, along with the decree and Judgment of this Court for payment of enhanced compensation. As the Competent Authority failed to pay the amount as fixed by this court in the above CMA and as there is no provision for depositing the amount by the Competent Authority either under the Act or the Rules made thereunder, the petitioner has filed this writ petition.

3. Sri S. Venkateswara Rao, the learned counsel for the petitioner, contends that since there is no forum available for the claimant to get the decree executed, he has no alternative but to resort to Article 226 of the Constitution by way of a writ petition.

4. It is useful to read Section 9 of the Act, which is as follows: -

"9. Payment of Compensation : The amount of Compensation payable under an award shall, subject to any rules made under this Act, be paid by the Competent authority to the person or persons entitled thereto in such manner and within such time as may be specified in the award."

5. The Requisitioning and Acquisition of Immovable Property Rules, 1953 have been framed by the Central Government in exercise of the powers conferred u/s 22 of the Act.

6. Rule 10 (5) of the said Rules reads as follows :-

"10(5). When arbitrator has made his award he shall sign it and shall give notice in writing to the parties to the reference of the making and signing thereof. He shall also send to the competent authority as well as to the person or persons to be compensated a copy of the award with a note appended thereto setting forth the grounds on which the award is based and shall also forward the award in original together with the records of the proceedings--

(a) to the proper court if an appeal is preferred against the award within the period of limitation prescribed for preferring such appeal;

(b) to the Competent authority if no such appeal is preferred within the said period.

Rule 10 (6) of the above Rules which is also relevant reads as follows:-

"On receipt of a copy of the award, the competent authority shall pay the amount awarded by the arbitrator to the persons entitled thereto."

7. Rule 10 (6) of the above Rules contemplates that where an award has been passed by the Arbitrator, the Competent Authority has to pay the compensation. Since there is no rule directing the Competent Authority to pay the enhanced compensation as directed by the Appellate Court, the only course left open to this court is to direct the same Competent Authority who was directed to pay the compensation by the Arbitrator, to pay the enhanced compensation also. The same method of payment or procedure with regard to the payment of compensation awarded by the Arbitrator has to be followed in the case of enhanced compensation also granted by the Appellate Court.

8. Since there is no rule with regard to the payment of enhanced compensation awarded by an Appellate Court, as in this case, it is always desirable for the Central Government to frame a rule prescribing the procedure with regard to payment of enhanced compensation.

9. When the petitioner is not in a position to execute the decree in any forum, the only remedy is to approach this court under Article 226 of the Constitution which he did in this case. The petitioner is directed to approach the Competent Authority with a copy of this order as well as the certified copy of the decree and judgment in the Appeal and the Competent Authority i.e., the District Collector, Visakhapatnam, is directed to pay the enhanced compensation to the claimants as per the judgment in CMA No. 1077 of 1987 dt. 26th July, 1989 within four months from the date of receipt of this order.

10. The writ petition is disposed of accordingly. No costs. Advocate's fee Rs. 250/-.