

(2021) 12 TEL CK 0036
In the Telangana High Court
Case No : Writ Appeal No. 605 Of 2018

B. Ram Mohan Rao

APPELLANT

Vs

Telangana State Road Transport Corporation

RESPONDENT

Date of Decision : 16-12-2021

Acts Referred:

Constitution Of India, 1950 — Article 300A
Right To Fair Compensation And Transparency In Land Acquisition Rehabilitation And Resettlement Act, 2013 — Section 24(2)
Land Acquisition Act, 1894 — Section 4(1), 48, 48(i)

Citation : (2021) 12 TEL CK 0036

Hon'ble Judges : Thottathil B. Radhakrishnan, CJ; S.V. Bhatt, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard the learned Government Pleader (Land Acquisition) for appellants and Sri R. Raghunandan Rao, learned Senior Advocate for respondent Nos. 1 & 2.

2. The Land Acquisition Officer-cum-Revenue Divisional Officer, Rajampet, Kadapa District and the Collector, Kadapa, Kadapa District are the appellants. The appellants challenge the order of the learned Single Judge dated 16.08.2017 in W.P.No.20573 of 2007. The learned Single Judge through the order under appeal held that the appellants by taking the land of respondent Nos. 1 and 2, without paying compensation, have deprived their rights under Article 300-A of the Constitution of India. The land acquisition proceedings initiated under the Land Acquisition Act, 1894, with the coming into force of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (for short 'Act 30/2013') and by operation of Section 24(2) of the said Act, these acquisition proceedings have lapsed and, hence, directed the appellants to initiate proceedings under Act 30/2013.

3. The saga and the ordeal of suffering with the loss of property without receiving compensation has unfurled under the following circumstances: The

appellants issued notification to acquire agricultural land an extent Acs.2-00 in Sy.No.389/1 and Acs.5-07 Cts in Sy.No.392/1 for construction of 220/132 KV sub-station at Rajampet Mandal. The 1st and 2nd respondents are concerned with Sy.No.392/1 of an extent of Acs.5-07 Cts and prayed for setting aside Award No.10/1998-99 dated 30.10.1998 and pay compensation for acquiring Acs.5-07 Cts in Sy.No.392/1. On 18.07.1990, the appellants have taken possession of Acs.2-00 in Sy.No.389/1 and Acs.5-07 Cts in Sy.No.392/1. On 13.03.1997, the appellants issued notification under Section 4(1) of the Land Acquisition Act, 1894. We are not concerned with the other details of acquisition, for on 30.10.1998, the appellants passed an Award for the lands under acquisition, excepting Sy.No.392/1. On 22.09.1998, the 1st appellant addressed the 2nd appellant to withdraw the acquisition proceedings initiated for an extent of Acs.5-07 Cts covered by Sy.No.392 as Sy.No.392/1, as this land is classified as "....." (dots) in RSR. The Government issued Memo No.8908/Pr.IV/98-I dated 06.11.1998 for withdrawing the notification insofar as Sy.No.392/1 is concerned under Section 48(i) of the Land Acquisition Act, 1894. From the above, it is evident that the justification offered in Sy.No.392/1 is Government land. The appellants on 18.07.1990 admit to have taken possession of an extent of Acs.5-07 Cts in Sy.No.392/1. The appellants also admit that they did not pay compensation to respondent Nos.1 and 2 for acquiring their right.

The case of respondent Nos.1 and 2 is that the land in Sy.No.392/1 is private patta land and the land cannot and could not be treated as either assigned or land having Government interest. The other dates and events, non-payment of compensation etc., are not in dispute and, hence, not stated in this order.

4. The order under appeal framed the following point for consideration:

"Whether on the basis that the land is DKT land or on the basis that the land is shown '.....' (DOTS) in the pattedar column in RSR, can the State withdraw the 4(1) Notification issued in the year 1997 invoking Section 48 of the Act 1894?"

5. The learned Single Judge referred to the binding precedents on the points viz., whether the entitlement of even an assignee for compensation under the Act and whether the description of agricultural land has got dots would automatically vest right or title in the Government to the decisions reported in LAND ACQUISITION

OFFICER-CUM-REVENUE DIVISIONAL OFFICER, CHEVELLA DIVISION, DOMALGUDA, HYDERABAD AND OTHERS v. MEKALA PANDU AND OTHERS (2004(2) ALD 451 (LB) and G.SATYANARAYANA v. GOVERNMENT OF ANDHRA PRADESH AND OTHERS 2014(4) ALD 358 and held as excerpted above.

6. Before proceeding to consider the ground of challenge against the order under appeal, it is brought to our notice that the decision of Larger Bench of this Court in MEKALA PANDU case (1 supra) was confirmed by the Apex Court in Civil Appeal. Therefore, the right to receive compensation even if the subject matter is assigned land is no more res integra. The other contention viz., treating the land classified as dots, therefore, the land belongs to Government or assigned land, is

also no more res integra. The decision reported in G.SATYANARAYANA case (2 supra) is directly on the point. In the above admitted facts and circumstances and the binding precedents, the summary of consideration by us is as follows:-

The appellants issued Section 4(1) notification including Sy.No.392/1 in an extent of Acts.5-07 Cts proposing to acquire for establishing 220/132 KV sub-station. The appellants have continuously treated Sy.No.392/1 as private patta land and there is obligation to pay compensation for acquiring the right and title of owners and dispossessing them from their enjoyment. The appellants changed their view through letter dated 22.09.1998 and recommended for withdrawing the notification dated 13.03.1997 issued under Section 4(1) insofar as the land in Sy.No.392/1 is concerned. On 06.11.1998, the memo was issued withdrawing the notification insofar as the subject land is concerned. The appellants through unilateral decision cannot treat the subject land as Government land.

7. Now, the justification offered for non-payment of compensation is that the land is shown as dotted land in RSR. The 1st and 2nd respondents refer to sale deed No.1401/1951 and contend that land in Sy.No.392/1 was and is not Government land and the burden is on the appellants to show that firstly the Government continues to be the owner of land in Sy.No.392/1 and/or that it was assigned under Darkast Rules.

8. The appellants, in our considered view, have failed to discharge the burden or justify that denial of compensation or withdrawing the notification insofar as Sy.No.392/1 is legal. There is no merit in the appeal and in our considered view the learned Single Judge has comprehensively appreciated each one of the circumstances which have bearing on the fact in issue between the parties, applied the binding precedents and allowed the writ petition.

9. The writ appeal fails for the above reasons and is, accordingly, dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, stand closed.