
(2003) 04 AP CK 0017

In the Andhra Pradesh High Court

Case No : Writ Petition No. 5257 of 2003

Bandhakavi Seeta Mahalakshmi

APPELLANT

Vs

Collector and Another

RESPONDENT

Date of Decision : 07-04-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 11A, 17(3A)

Citation : (2003) 4 ALD 506 : (2003) 3 ALT 779

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : K.V. Satyanarayana, for the Appellant; Government Pleader for Land Acquisition, for the Respondent

Judgement

L. Narasimha Reddy, J.—The petitioner is the owner of the land in R.S.No. 22/3, Sajjapuram Village, Tanuku Mandal, West Godavari District.

2. Through their notification dated 25.2.1999 issued u/s 4(1) of the Land Acquisition Act (for short "the Act"), the respondents proposed to acquire Ac.0.43 cents of land belonging to the petitioner. Section 17(1) of the Act was invoked and advance possession thereof was taken. The notification u/s 6 of the Act came to be published on 26.2.1999. Notice u/s 9 of the Act was issued on 24.3.1999 and notices in award enquiry were issued on 4.4.2000. The petitioner responded to the same and submitted her claim statement on 25.4.2000. The complaint of the petitioner is that though the possession of the land was taken way back in the year 1999, neither 80 per cent of the compensation as provided for u/s 17(3A) of the Act was paid, much less an award was passed.

3. Mr. K.V. Satyanamyana, learned Counsel for the petitioner submits that since the award in respect of the land of the petitioner was not passed within two years from the date of publication of the notification u/s 6 of the Act, the entire proceedings are deemed to have lapsed in view of Section 11A of the Act. He further submits that the question of non-application of Section 11A of the Act to any acquisition would arise if only 80 per cent of the compensation as provided

for u/s 17(3A) of the Act is paid.

4. Learned Government Pleader for Land Acquisition, on the other hand, submits that once the provisions u/s 17(1) of the Act are invoked, Section 11A of the Act does not get attracted as held by the Supreme Court in *Satendra Prasad Jain and Others Vs. State of U.P. and Others*, . It is also his case that the respondents are taking steps to pass the award and the compensation would be paid as soon as the award is passed.

5. It is a matter of record that the land of the petitioner was notified for acquisition through notification dated 25.2.1999 published u/s 4(1) of the Act. Possession was taken shortly thereafter by invoking the urgency clause u/s 17(1) of the Act. The notification u/s 6 came to be published on 26.2.1999. It is not disputed that even as on today, no order has been passed. Section 11A of the Act stipulates that where no award is passed within two years from the date of publication of the notification u/s 6 of the Act, the entire acquisition proceedings shall lapse.

6. In the case cited supra, the Hon'ble Supreme Court maintained the distinction between the two types of vestitures of the land under the Land Acquisition Act, namely, one u/s 16 of the Act, which shall be after an award is passed, and the one u/s 17(1) of the Act, where the possession is taken by invoking the urgency clause. It was held that Section 11A applies only in cases where the urgency clause is not invoked. It was further held that non-compliance with Section 17(3A), per se, does not invalidate the proceedings on the ground that the award was not passed within two years from the date of publication of notification u/s 6 of the Act.

7. Learned Counsel for the petitioner sought to distinguish the judgment of the Supreme Court vis-a-vis the facts of the present case. According to him, the ratio laid down by the Supreme Court was in the context of the agency, for whose benefit the land was acquired, not willing to pay compensation and it was intended to thwart the attempts of the beneficiary to extricate itself from the liability to pay the compensation.

8. Though what the learned Counsel for the petitioner had submitted is true on facts, in the ultimate analysis, the ratio laid down by the Supreme Court that mere non-compliance with Section 17(3A) does not invalidate the proceedings in view of Section 11A, cannot be ignored nor its applicability be restricted. Be that as it may, the petitioner was not so emphatic as to invalidate the entire acquisition proceedings. The purport of the pleadings and previous correspondence discloses that she was interested in being paid the compensation at the earliest.

9. Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the respondents to pass an award within six weeks from the date of receipt of a copy of this order. In case no award is passed within that period, it shall result in lapse of the entire land acquisition proceedings and the

petitioner shall be entitled to be restored the possession of the land. In such an event, it shall be open for her to make claim for use and " occupation for the period commencing with the date of taking of possession till the date of such restoration. No costs.