
(1992) 04 AP CK 0006

In the Andhra Pradesh High Court

Case No : Writ Petition No. 16047 of 1991

Gadde Subba Rao and Another

APPELLANT

Vs

Govt. of A.P. and Others

RESPONDENT

Date of Decision : 28-04-1992

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 11A, 4(1), 6

Citation : (1992) 2 ALT 608

Hon'ble Judges : Subhashan Reddy, J

Bench : Single Bench

Advocate : V.S.R. Anjaneyulu, for the Appellant; Govt. Pleader, for the Respondent

Judgement

Subhashan Reddy, J.—The facts in this case are startling. It shows the gross negligence of the governmental officers, invested with important functions of acquiring the properties of the citizens and to pay the compensation therefore, as contemplated under the provisions of the Land Acquisition Act 1894. May be, the acquisition is laudable as the same has been done to benefit the poorer sections of society for house sites enabling the people of lower strata to have shelter over their heads. But the petitioners whose lands have been acquired for the said purpose have to be compensated and they are entitled for payment of market value without unreasonable delay.

2. In the instant case, draft notification and draft declarations u/s 4(1) and 6 of the Land Acquisition Act were published on 28-9-1977 and the possession was taken over on 4-8-1981 and the house sites were distributed to the landless poor on 13-8-1981 and the houses have also been constructed. But, as yet, compensation has not been paid to the petitioners, even though the petitioners had invoked the jurisdiction of this court by invoking the provisions under Article 226 of the Constitution of India time and again but to no avail.

3. The petitioners had filed W.P. No. 16386 of 1984 seeking a relief to pass the

Award expeditiously and by order dt.12-12-84 this Court directed the Land Acquisition Officer to pass the award stipulating the time. The same was visited in breach and that constrained the petitioners to file another Writ Petition No. 10139/85 and the same was allowed on 13-6-1986 directing the Land Acquisition officer to pass the award and pay the compensation to the petitioners with cut off date for computation of market value as 30-3-1985, but the said order was also violated and not complied with. The petitioners had then filed writ petition No. 4444/87 seeking to quash the notification dt.28-9-1977 on the ground of inordinate delay and that the payment of market value prevalent as on 28-9-1977 would be grossly unreasonable and inadequate. The said contention found favour with this court and this court on 11-11-1988 had quashed the notification. Consequently, a fresh notification u/s 4(1) had to be issued and the same was in fact issued on 18-7-1989 followed by draft declaration u/s 6 of the Act but to no effect as that itself was not sufficient and the material thing was to pass the Award and pay the compensation. But, in view of insertion of Section 11A into the Land Acquisition Act, 1894 pursuant to the amendment under Act 68 of 1984, the notification u/s 4(1) of the Act published on 18-7-1989 extinguished and that is counter filed stating that the Award ought to have been passed on 25-12-1991. But, now it is admitted by the Government Pleader that the said Award has not been passed. Consequently, the draft notification issued u/s 4(1) of the Act on 18-7-1989 also lapsed. No plausible explanation is offered and there cannot be any explanation for this kind of gross negligence. While, there is no fault on the part of the petitioners and they are entitled for the payment of market value with all other statutory benefits and additional benefits under Act 68 of 1984, colossal loss has been caused by the Land Acquisition Officer in not passing the Award on time. Had the Award been passed on time, the market value which was payable would have been as prevalent on 28-9-1977. But, now due to the negligence of Land Acquisition Officer's the market value payable to the petitioners is net the ante of issuance of 4(1) notification. For the whims and fancies of the bureaucracy, the public funds cannot be made to suffer in this fashion. The acquisition being compulsory in nature, the compensation, was payable without unreasonable delay. But wilfully, the delay has been caused in the instant case in the payment of compensation hunting the petitioners as also depleting the Government funds which are the public funds. Hence, I direct the respondents to issue fresh draft notification u/s 4(1) of the Act concerning the lands in question within two months from the date of the receipt of this order and to complete the other formalities like issuance of draft declaration notice u/s 9(3) and 10 of the Act and passing of the Award and payment of the compensation to the petitioners within three months thereafter and in any event, the entire process shall not traverse beyond a total period of five months from the date of the receipt of this order. I also direct the 1st respondent to take appropriate action against the Land Acquisition Officers who are responsible in committing the delay in passing the Award and paying the compensation. If it is found that the delay occurred on account of the said Land Acquisition Officers appropriate action be initiated against them for realising the

differential amount of compensation, at least for the period from 30-3-1985 till the payment is made.

4. The writ petition is disposed of accordingly. No order as to costs. Advocate's fee Rs. 250/-