

**(2003) 11 AP CK 0002**

**In the Andhra Pradesh High Court**

**Case No : Writ Petition No's. 11993 and 19114 of 1999**

Lakshety Pedda Laxman and Others

APPELLANT

Vs

District Collector and Another

RESPONDENT

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**Date of Decision : 14-11-2003**

**Acts Referred:**

Andhra Pradesh Land Acquisition (Negotiations Committee) Rules, 1992 — Rule 14  
Land Acquisition Act, 1894 — Section 18

**Citation : (2004) 1 ALD 278**

**Hon'ble Judges : L. Narasimha Reddy, J**

**Bench : Single Bench**

**Advocate : Niranjan Reddy, for the Appellant; Government Pleader for Social Welfare, for the Respondent**

**Final Decision : Allowed**

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## **Judgement**

L. Narasimha Reddy, J.—These two writ petitions present common question of fact and law. Hence, they are disposed of through a common judgment.

2. The petitioners in W.P. No. 1 1993/ 1999 are residents of Vanjar Village, Sarangapur Mandal, Adilabad District. The petitioners in W.P. No. 19114/1999 are residents of Madhapur Village, Nirmal Mandal, Adilabad District. Both the villages were affected the floods. To rehabilitate the affected persons, an extent of Ac.11-31 guntas of land in Vanjar village and Ac.20-04 guntas of Madhapur village were acquired. Necessary notifications u/s 4(1) of the Land Acquisition Act (for short "the Act") were issued on 6-12-1997 and 5-11-1997 respectively, by the District Collector, the 1st respondent. After completing the necessary formalities, the Land Acquisition Officer (for short "the LAO"), the 2nd respondent in both the writ petitions, passed separate awards dated 4-7-1998 and 4-9-1998 respectively. He fixed the market value at Rs. 14,000/- per acre for the lands in Vanjar village and Rs. 25,000/- for those in Madhapur village.

3. Not being satisfied with the compensation so awarded by the 2nd respondent, the petitioners filed applications before the 2nd respondent, requesting him to

refer the matter to the Civil Court u/s 18 of the Act. Their request was not acceded to by the 2nd respondent. In the Memos of various dates addressed to the petitioners, the 2nd respondent stated that the petitioners have consented to part with the lands on payment of the compensation at the rates referred to above and, as such, the question of referring the matter to the Civil Court u/s 18 does not arise. The petitioners challenge the action of the 2nd respondent in refusing to refer the matter to the Civil Court u/s 18 of the Act.

4. The petitioners contend that they never consented to take any particular amount of compensation. According to them, taking advantage of their illiteracy and backwardness, the officials of the 2nd respondent have obtained signatures on some blank papers, stating that they are needed for ascertaining market value. It is also their case that the discussion undertaken by the 2nd respondent in the Awards discloses that neither there existed any consent nor that it was accepted. The petitioners further contend that the A.P. Land Acquisition (Negotiations Committee) Rules, 1992 (for short "the Rules") prescribes the manner of composition of Committee and the procedure for negotiations. It is their case that none of the steps indicated therein have been followed. According to them, the only method in which the consent award can be passed is by adhering to the procedure prescribed under the Rules and not otherwise.

5. The respondents filed counter-affidavits. The tenor of the counter-affidavits is that the petitioners filed their written consent in Form IV prescribed under the Rules, agreeing to receive compensation at the rate of Rs. 14,000/- and Rs. 25,000/- per acre respectively, and it was in this context that the consent awards came to be passed. Referring to the allegation of the petitioners as to the non-compliance of the procedure prescribed under the Rules, the respondents contend that the Rules initially contemplated inclusion of a Judge, nominated by the District Judge, as a Member of the Committee, and the same was dropped under amendment carried out through G.O. Ms. No. 286 Revenue (L.A.) Dept, dated 16-2-1993. It is stated that the District Collector, being the Chairman of the Committee, has accepted the offer of the petitioners in Form No. IV and the consent awards came to be passed in terms thereof.

6. Sri 5. Niranjan Reddy, learned Counsel for the petitioners in both the writ petitions, submits that the Land Acquisition Act read with Article 300A of the Constitution of India confers a legal right on the petitioners to seek reference u/s 18 of the Act and the same cannot be denied to them. He submits that the ground pleaded by the 2nd respondent in the impugned Memos, for rejecting the applications of the petitioners, is untenable. He contends that the 2nd respondent had taken advantage of the illiteracy of the petitioners and had taken the stand that they have consented to be paid a particular sum as compensation. Referring to the various provisions of the Rules and the contents of the respective Awards, learned Counsel submits that none of the steps contemplated under the Rules are reflected in the awards. He submits that, under these circumstances, the petitioners cannot be denied of their legitimate right.

7. Learned Government Pleader for Land Acquisition, on the other hand, submits that the petitioners have agreed to receive a particular sum as compensation, and once an award was passed acceding to their request, the question of making a reference u/s 18 of the Act does not arise. He submits that one of the important conditions for seeking reference u/s 18 is recording of protest while receiving the compensation. He asserts that since the petitioners have consented to a particular sum as compensation, there did not exist any protest and thereby they are not entitled to seek reference u/s 18 of the Act.

8. The lands of the petitioners were acquired for the benefit of the flood victims of the respective villages. Awards were passed as contemplated under the Act. The petitioners requested the 2nd respondent to refer the matter to the Civil Court as to the adequacy of compensation. Their request was negatived on the sole ground that they have given their consent to part with their land on payment of Rs. 14,000/- or Rs. 25,000/- per acre, as the case may be. In the counter-affidavits filed by the respondents, reference is made to the Rules and it is urged that once the payment of the compensation is made as a result of negotiations under the Rules, the claimants cannot seek reference u/s 18.

9. Under the powers of Eminent Domain; the State is entitled to deprive a citizen of his property, subject, however, to payment of compensation. The Act provides for the procedure to be followed in the matter of acquisition of lands and payment of compensation thereof. The parameters of fixation of just and adequate compensation are provided for under various sections. The Act did not attach finality to the compensation fixed by the LAO. It provides for a reference to be made to Civil Court u/s 18, be it as regards adequacy or entitlement. Apart from the common law remedy of a citizen to get the value for his property, Section 18 enables such persons to seek reference as a matter of right. Once it is found that the application is filed within the time stipulated u/s 18(2) and there exists a protest as provided for under proviso to Section 31(2), the LAO is under obligation to refer the matter to the Civil Court. The circumstances under which a claimant can be said to have protested while receiving the compensation was dealt with by a Full Bench of this Court in W.A. No. 1742 of 2001 dated 19-9-2003.

10. The applications of the petitioners for reference are not rejected on the ground that they were not made within the stipulated time. They are rejected on the sole ground that the petitioners consented to receive a particular sum of compensation. In a way, it is the negative enforcement of the proviso u/s 31(2) against the petitioners.

11. The respondents specifically pleaded that the awards came to be passed in respect of the lands of the petitioners in accordance with the procedure stipulated under the Rules contained in G.O. Ms. No. 1050, Revenue (LA.) Dept., dated 17-10-1992. The Rules were framed in exercise of the power u/s 55 of the Act. Subsequently, these Rules were amended through G.O. Ms. No. 1286, Revenue (LA.) Department, dated 16-2-1993 and G.O. Ms. No. 594, Revenue

(LA.) Department, dated 10-8-1998.

12. Under Rule 3 of the Rules, negotiations in the matter of fixation of compensation are to commence only after the LAO conducts enquiry, passes award and submits it to the District Collector for approval of the preliminary value, u/s 11 of the Act. Rule 4 prescribes the composition of the Negotiations Committee. Initially, the Committee used to comprise of District Collector as Chairman, the LAO as a Convenor and four Members, viz., a Judge of the District nominated by the District Judge or the High Court, Joint Collector, Executive Engineer of Roads and Buildings and a nominee of the Requisitioning Department. It is stated that through 1993 amendment, the requirement of the Judge being a Member of the Committee was done away with. Through G.O. Ms. No. 594 dated 10-8-1998, Clause 7 was added to Rule 4 for inclusion of one retired District Judge to be nominated by the Government as a Member of the Committee. Since the Awards in question came to be passed prior to 1998 amendment, it has to be proceeded as though the Committee does not comprise of a Judge nominated by the District Judge.

13. Rule 5 mandates that the Convenor of the Committee shall cause a notice to be displayed in Form No. I in the respective villages, inviting applications from interested persons and to appear before the Committee. Rule 6 provides for submission of claims by interested persons. The Committee is obliged to negotiate settlement only when all the interested persons are before it. Under Rule 8, the Collector is required to serve a notice on the Requisitioning Department to submit a claim under Form No. II Rule 10 prescribes detailed procedure as to the conduct of business by the Committee. This includes receiving of statements from the interested persons, service of notice of hearing, oral representations, etc. Agreement in Form No. III between the owner, on one hand and the LAO, on the other, is required to be entered into and attested by the Members of the Committee at the final meeting. Affidavits are required to be taken from the concerned persons in Form No. IV by the LAO. Rule 16 prohibits reference u/s 18, once an award is passed through a negotiated settlement. The award is required to be in terms of the settlement. Since the consent award, which is the result of a negotiated settlement, has the affect of depriving the landowner of his right to seek reference u/s 18, every step in the proceedings shall be in accordance with the Rules.

14. Reverting to the awards passed by the 2nd respondent; a perusal of the same discloses that he has collected the figures of comparable sales. In the subsequent paragraphs, the 2nd respondent stated that the petitioners have given consent for receiving Rs. 14,000/- per acre for the lands in Vanjar village and Rs. 25,000/- for those in Madhapur village. Except making a reference to this so-called consent, he did not refer to any settlement negotiated by the Committee or an agreement in Form No. III, as required under the Rules. No affidavits in Form No. IV were spoken to. In the subsequent portion of the awards, the 2nd respondent referred to the claim of the petitioners to the tune of

Rs. 40,000/- per acre. He refused to award the compensation at higher rate, on the ground that the petitioners have agreed to receive compensation at Rs. 14,000/- or Rs. 25,000/-per acre, as the case may be. In respect of certain claims, he did not accept the higher rate on the ground that no evidence was produced in support of such claims.

15. On a consideration of the Rules and the awards passed in respect of the petitioners in these two writ petitions, this Court finds that there was no settlement as provided for under the Rules. Even in the counter-affidavits, it is not stated that a Committee, as contemplated under Rule 4, was constituted. No reference was made to the Constitution of the Committee with other Members, much less, their participation. It was projected as though the District Collector himself can constitute or represent the Committee. The requirements as to the existence of applications from the Requisitioning Department, Agreement in Form No. III to be signed by the landowner on one hand, and the LAO on the other, and attestation thereof by the Members of the Committee, are totally absent. The affidavits, which are prescribed in Form No. IV and required to be procured from the claimants, are not even referred to. The 2nd respondent was not supposed to treat the matter of consent at his ipse dixit. The respondents were not able to place before this Court any document, containing the so-called consent said to have been given by the petitioners. The consent was required to be in a prescribed form. The allegation of the petitioners that their signatures were taken on blank papers by stating that they are required for the purpose of preparing valuation, etc., remains unrebutted.

16. When law accords a valuable right to the petitioners to seek reference u/s 18, the respondents, cannot deny the same on the basis of a non-existent exercise. It is settled principle that where law requires a thing to be done in a particular manner, it shall be done in that manner or not at all. The authority exercising the power cannot bend the provisions or procedure to suit his convenience.

17. The respondents seek to deny the right of the petitioners on the basis of Rule 14 of the Rules. Rule 14 can be pressed into service, if only the other provisions of the Rules are complied with. Once it has emerged that none of the requirements of the Rules were complied with by the respondents, there does not exist any justification for the 2nd respondent in rejecting the applications of the petitioners for making reference u/s 18.

18. Hence, the writ petitions are allowed and the impugned Memos are set aside. The 2nd respondent is directed to make reference u/s 18 of the Act , in relation to the claims of the petitioners arising out of the Awards dated 4-7-1998 and 4-9-1998 respectively, within two months from the date of receipt of a copy of this order. No costs.