

(1993) 04 AP CK 0027

In the Andhra Pradesh High Court

Case No : Writ Petition No. 9452 of 1989

Mudumekala Hanumanna

APPELLANT

Vs

The District Collector and Another

RESPONDENT

Date of Decision : 08-04-1993

Acts Referred:

Constitution of India, 1950 — Article 300A

Land Acquisition Act, 1894 — Section 11, 11A, 4(1), 5A

Citation : (1993) 1 ALT 744

Hon'ble Judges : B. Subhashan Reddy, J

Bench : Single Bench

Advocate : A. Suryanarayana, for the Appellant; Government Pleader for Social Welfare, for the Respondent

Judgement

B. Subhashan Reddy, J.—It is distressing to note that a citizen like the petitioner herein has been deprived of his valuable property of Ac. 5-77 cents way back in the year 1981 in the proceedings initiated under the Land Acquisition Act that too by invoking urgency clause dispensing Section 5-A enquiry under the said Act. Possession was taken over and the pattas were distributed, houses were constructed for poor and they were also inaugurated. The beneficiaries had been in occupation of the said houses and the laudable object of providing house sites to the poor is achieved. So far so good. But corresponding obligation of the State to pay the compensation to the petitioner which is the constitutional guarantee under Article 300-A of the Indian Constitution has not been complied with. From 1981 to 1993 the petitioner is driven from pillar to post begging for compensation. In fact he need not beg for compensation as he has got a right to claim compensation which is guaranteed under the Constitution of India. But the same is visited in breach by the executive, even though the legislative intendment to compensate the citizen for deprivation of his property, that too expeditiously, is clear and unambiguous.

2. Mr. Chandraiah, learned Government Pleader, tries to explain the delay reading

from the counter wherein it is stated that the delay is because of correspondence of the Land Acquisition Officer with the municipality, which has got absolutely no relevancy or bearing on the passing of the award. In the instant case, absolutely there was no embargo or restraint from passing the award which is to be done under the provisions of the Land Acquisition Act as expeditiously as possible and more so when the urgency clause is invoked. The State should realise that when the urgency clause is invoked, equally there is urgency for payment of compensation also. But the said constitutional mandate is violated in the instant case. Now that Section 11-A of the said Act, operates and Section 4(1) is extinguished and mat the property cannot be resumed because of the construction of houses and the beneficiaries are staying for a long time, there is no use in directing this faulting and indifferent executives to reissue notification. Instead I opt to follow the dicta laid down by the Supreme Court in Ujjain Vikas Pradhikaran Vs. Raj Kumar Johri and others, . to deem that Section 4(1) notification has been issued on this day i.e., 8-4-1993. Deeming that Section 4(1) notification has been issued on this day i.e., 8-4-1993 the Land Acquisition Officer i.e., the second respondent herein, shall conduct the award enquiry and pay the compensation determining the market value prevalent as on this day i.e., 8-4-1993 with all statutory benefits of solatium, additional compensation and interest. This exercise shall be made by the second respondent positively without fail, within four months from the date of receipt of this order. The second respondent should bear in mind if he does not pass the award and pay the compensation to the petitioner within the outer limit of four months he shall be mulcted with the liability personally apart from action for contempt.

3. The Writ Petition is disposed of, accordingly. No order as to costs.