

(1992) 08 AP CK 0042
In the Andhra Pradesh High Court
Case No : Writ Petition No. 2112 of 1988

Sarva Reddy and Others

APPELLANT

Vs

The Special Deputy Collector, L.A. Unit Priya Darshini Jurala
Project

RESPONDENT

Date of Decision : 18-08-1992

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 12(2), 18, 18(1), 18(2)

Citation : (1993) 2 ALT 185

Hon'ble Judges : Reddeppa Reddi, J; M.N. Rao, J

Bench : Division Bench

Advocate : B. Purushotham Reddy, for the Appellant; Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

M.N. Rao, J.—The thirty five petitioners herein, mostly belonging to Scheduled Caste and Back ward Classes, are agriculturists owning very small extents of land, aggregation Ac. 29-00, which was acquired by the Government for a public purpose. The award was passed by the Collector on 25-7-1985. The petitioners were served with notices of the award u/s 12(2) of the Land Acquisition Act (hereinafter referred to as "the Act") on 25-7-1985. They made written applications on 9-9-1985 u/s 18(1) of the Act requesting the Collector to refer the matter to the Civil Court for determination of the compensation amount. After two years and three months, those applications were rejected on 10-12-1987 on the ground that they were received "with a delay of five days". Challenging the same, the present Writ Petition was filed.

2. At the interlocutory stage, after hearing both sides, a direction was given to the respondent-Special Deputy Collector, to refer the petitions filed by the petitioners herein u/s 18(1) of the Act to the Civil Court for adjudication. Pursuant to the aforesaid interim direction, the matter was referred to the Civil

Court and in O.P. No. 387 of 1987 and batch the learned Subordinate Judge, Gadwal, made an award.

3. Sri. B. Purushotham Reddy, learned counsel for the petitioners, submits that when once notices were served on the petitioners u/s 12(2) of the Act, within two months from the date of service of the notices they are entitled to require the District Collector, u/s 18(1) of the Act, to refer the matter to the Civil Court for determination of compensation. In opposition to this, the learned Government Pleader contends that when the petitioners were present in the open court when the award was pronounced, the request has-to be made by them only within six weeks from the date of the award, and as the same was made beyond time, rightly it was not entertained.

4. On the admitted facts stated supra, we are of the view that the writ petition must succeed. It is incumbent on the District Collector to issue immediate notice of his award u/s 12(2) of the Act "to such of the persons interested as are not present personally or by their representatives when the award is made." u/s 18(1) of the Act any person, who is interested but has not accepted the award, may make a written request to the Collector asking him to refer the matter for determination by the Court. Sub-Section (2) of Section 18 lays down that the application shall state the grounds on which the objection to the award is taken. Provisos (a) and (b) to Sub-section (2), which are relevant, read as follows :-

"Provided that every such application shall be made-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award.

(b) in other cases, within two months from the date of service of the notice from Collector u/s 12, Sub-section (2)."

5. The order of rejection dated 10-12-1987 does not allude to the fact that the petitioners were personally present. The counter affidavit says that "the award proceedings were pronounced in open court on 25-7-1985". And from this it is not possible for us to draw the inference that the petitioners were in fact present. We do not want to go into the disputed fact-whether the petitioners had advance notice about the date of pronouncement of the award. What is indisputable is that u/s 12(2) of the Act notices were served by the Collector on the petitioners on 25-7-1985 and when such a course of action was adopted, the petitioners are entitled to avail of the extended period of limitation provided under proviso (b) to Sub-section (2) of Section 18, namely, two months from the date of service of notice to make written request u/s 18(1) seeking reference of the matter to the Civil Court. The request in this case having been made on 9-9-1985 was within the time allowed by Section 18(2) proviso Clause (b), and so the rejection of the request was clearly illegal.

6. We, therefore, allow the Writ Petition and quash the order of the Special

Deputy Collector, L.A.Unit,Priya Darshini Jurala Project, Gadwal, dated 10-12-1987 in L.Dis. No. K/407/87. No costs.