

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.19670 of 2002

Date:07.11.2007

Between:
G.Jayamma.

... Petitioner

AND

The Government of A.P., repled., by its District Collector, Cuddapah, Cuddapah District and three others.

... Respondents

Counsel for the petitioners: Sri Y.Venkata Satyam.

Counsel for the respondents: Asst. Govt. Pleader for Land Acquisition.

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HONOURABLE MR.JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.19670 of 2002

ORDER:-

This Writ Petition is filed for a Writ of Mandamus to declare notification dated 24-6-1999 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act) in respect of 1.56 cents of land situated in Survey No.497/2 of Kothapalli village, Proddatur Mandal, Cuddapah District, as illegal, arbitrary and violative of Article 14 of the Constitution of India.

The petitioner claims to have purchased the land under acquisition, as described above, under a registered sale deed dated 2-2-1987. Notification under Section 4(1) of the Act was published on 9-8-2000 and Award was passed on 14-2-2002. The petitioner filed the present Writ Petition in October, 2002.

Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Land Acquisition.

The only contention advanced by the learned counsel for the petitioner is that though the petitioner purchased the property under a registered sale deed, her name was not shown in the notification issued under Section 4(1) of the Act and the declaration made under Section 6 of the Act. He, therefore, contends that initiation of land acquisition proceedings is liable to be held as invalid.

I have considered the submission of the learned counsel for the petitioner and I am not inclined to accept the same. In her affidavit filed in support of the Writ Petition the petitioner has not averred that after purchasing the property she got her name mutated in the revenue records. As the petitioner questioned the validity of the notification, the primary burden

rests on her to prove that her name was mutated in the revenue records and that in spite of the same it was not shown in the land acquisition notification. Since the petitioner has not even pleaded, leave alone, producing material in support of the same that her name was mutated, this plea of the petitioner cannot be accepted. The petitioner has not raised any other ground. Therefore, the Writ Petition is liable to be dismissed.

At the hearing, on the basis of the averments contained in the counter-affidavit, the learned counsel for the petitioner submitted that the Award was passed on 14-2-2002 and as the petitioner was pursuing the present Writ Petition, wherein the very initiation of the land acquisition proceedings is questioned, the petitioner had no opportunity of making an application under Section 18 of the Act for reference of the matter to a competent civil court. Under Section 18, a time limit is stipulated for making reference and it has expired long time back. Since the petitioner had been bona fide pursuing the present Writ Petition all along, I am of the opinion that ends of justice would be met if she is permitted to make an application seeking reference of the matter for enhancement of compensation if she is not satisfied with the quantum of compensation fixed under the Award within a period of four weeks from today. On such an application being made, the Revenue Divisional Officer, Jammalamadugu, 2nd respondent herein, shall, after verification, refer the dispute to a competent Civil Court under Section 18 of the Act without taking any objection on the limitation as prescribed under Section 18 of the Act.

Subject to the above observations, the Writ Petition is dismissed.

C.V.NAGARJUNA REDDY,J
07-11-2007

MNR