

Laxmanna and Another Vs. the State of A.P., Represented by Distri

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Court : Andhra Pradesh

Decided On : Nov-28-2012

Judge : Hon'Ble Sri Justice C.V. Nagarjuna Reddy

Appellant : Laxmanna and Another

Respondent : The State of A.P., Represented by Distri

Advocate for Def. : Sri. G. Butchaiah Goud Counsel

Judgement :

HON'BLE SRI JUSTICE C.V.

NAGARJUNA REDDY W.P.No.33982 o

28. 11-2012 Laxmanna and another The State of A.P., represented by District Collector, Mahaboobnagar and another HEAD NOTE: Counsel for petitioners : Sri G.

Butchaiah Goud Counsel for respondents : Assistant Government Pleader for Land Acquisition ?CASES REFERRED: Nil ORDER: This Writ Petition is filed for a mandamus to declare the action of respondent No.2 in not referring the dispute raised by the petitioners for adjudication under Section 18 of the Land Acquisition Act, 1894 (for short "the Act") in respect of property bearing No.17-35/1, 17-31 of Uddigadda village, Dharoor Mandal, Mahaboobnagar District, as illegal and arbitrary.

An award was passed in respect of the above mentioned property by respondent No.2 on 28-3-1992.

As there was a dispute as to the persons entitled to receive the compensation, the same was referred to the Court of the learned Senior Civil Judge, Gadwal (for short "the Civil Court") under Sections 30 and 31 of the Act by respondent No.2.

The Civil Court disposed of the said reference by Judgment and Decree dated 24-10-2006, holding that respondent No.1 therein i.e., the father of the petitioners, alone is entitled to receive the compensation amount.

The petitioners have received the compensation on 21-7- 2007.

Thereafter, they have made an application to respondent No.2 on 24-4-2007 with a request to refer the dispute to the Civil Court for enhancement of compensation under Section 18 of the Act.

As no action on this application was taken, the petitioners filed this Writ Petition.

Under the proviso to sub-section (2) of Section 18 of the Act, if the person making the application for reference was present or represented before the Collector at the time when he made his award, he shall make such application within six months from the date of the award and in other cases, within two months from the date of service of notice from the Collector under Section 12(2) of the Act.

In the counter-affidavit, respondent No.2 has reckoned the starting point of the limitation as the date of disposal of the O.P.

i.e., 24-10-2006 and computed the period of 60 days therefrom.

In my opinion, such a calculation is not in conformity with the provisions of Section 18 of the Act.

In making the application for reference under Section 18, the Act did not make a distinction between a case where there was no dispute as to the persons who are entitled to receive the compensation, and a case where such dispute was referred to the Civil Court under Sections 30 and 31 of the Act.

In either case, the person who has not accepted the award is bound to make an application under Section 18 within the period stipulated therein as mentioned above.

So, in strict sense, the petitioners ought to have made their application for reference under Section 18 of the Act within two months from the date of service of award notice under Section 12(2) of the Act, or at least within two months from the date of receipt of notice of the proceedings under Section 30 of the Act, if they had no knowledge of passing of the award.

At any rate, even taking the liberal interpretation given by respondent No.2, the petitioners ought to have filed their application on or before 23-12-2006.

Sri G.

Butchaiah Goud, the learned counsel for the petitioners, submitted that as his clients have received the compensation only on 21-3-2007, they have made the application within two months of receiving the compensation.

I am afraid, this contention cannot be accepted.

As rightly pleaded by respondent No.2, the factum of the petitioners receiving the compensation has no relevance to the computation of limitation.

For the above mentioned reasons, I do not find any merit in the Writ Petition.

The Writ Petition is accordingly dismissed.

As a sequel, WPMP No.43227 of 2012 is disposed of as infructuous.

_____ Justice C.V.

Nagarjuna Reddy 28-11-2012

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