

E. Ramasubbareddy Vs. State of A.P. and Others

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Court : Andhra Pradesh

Decided On : Feb-14-1989

Reported in : AIR1990AP8

Judge : Syed Shah Mohd Quadri, J.

Acts : [Land Acquisition Act, 1894](#) - Sections 4 (1), 6, 11-A, 31 and 34; Land Acquisition (Amendment) Act, 1984

Appeal No. : Writ Petn. No. 15532 of 1987

Appellant : E. Ramasubbareddy

Respondent : State of A.P. and Others

Advocate for Def. : Govt. Pleader for F & P

Advocate for Pet/Ap. : E. Subrahmanayam, Adv.

Judgement :

ORDER

1. The land of the petitioner was acquired for Srisailem Project. Notification under S. 4(1) and declaration under S. 6 of the Land Acquisition Act were published on February 20, 1981. The award was passed on 15-9-1986. It is stated that cheques were issued to the petitioner for the amount of compensation. The petitioner presented the cheques in his bank. According to the petitioner, the cheques ought

to have been encashed on or before 24th September, 1984 as the period of two years prescribed under S. 11-A of the Act would expire by that date. As the cheques were not cashed before that date, the petitioner submits there is no award in the eye of law and all the proceedings under the Land Acquisition Act will be deemed to have lapsed by virtue of S. 11-A of the Act. The petitioner, therefore, prays that a writ of mandamus may be issued directing the respondents 1 and 2 to issue a fresh notification under S. 4(1) of the Land Acquisition Act.

2. The respondents filed common counter-affidavit. It is stated that the cheques were issued on 7-9-1986. It is further stated that under S. 11-A of the Act the award has to be passed within two years of the declaration under S. 6 of the Act. In this case, the award was passed within the specified time. The Government of Andhra Pradesh have authorised the Deputy Collector to issue cheques on the State Bank of India, Rajampet. Accordingly; the Special Deputy Collector, Telugu Ganga Project, Cuddapah issued cheques on the State Bank of India, Rajampet. The petitioner should have presented the cheques in that bank for encashment but because the petitioner did not present cheques in the said bank, the Land Acquisition Officer is not responsible for the delay in the encashment of the cheques. In these circumstances, it is prayed that the writ petition may be dismissed .

3. Sri Subrahmanyam, the learned counsel for the petitioner submits that the very purpose of enacting S. 11-A of the Act is to avoid delays in payment of compensation to the claimants, if after making award, compensation is not paid, S. 11-A would be defeated, therefore, payment of compensation should also be within two years; otherwise it would amount to not passing the award within the specified time resulting in lapse of acquisition proceedings. The learned Government Pleader on the other hand submits that delay in payment of compensation neither affects the validity of the award which is passed within the specified period nor the land acquisition proceedings.

4. The short question that arises for consideration is whether for non-payment of compensation within the period specified under S. 11-A of the Land Acquisition Act, the Land Acquisition proceedings lapse thereunder.

5. It would be useful to read S. 11-A of the Land Acquisition Act here :

'11-A : Period within which an award shall be made :

(1) The Collector shall make an award under Section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse;

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 the award shall be made within a period of two years from such commencement;

Explanation : In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of the Court shall be excluded'.

A plain reading of the section makes it clear that an obligation is imposed on the Collector to make an award under S. 11 within two years from the date of the publication of the declaration and in a case where the declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 within a period of two years from such commencement, that is, September 24, 1984. Admittedly, in this case, the award was passed within two years from the date of declaration under S. 6 of the Act. Making of the award is complete the moment it is drawn up and signed by the Collector. Payment of compensation is pursuant to the award and does not form part of the award. This is also evident from S. 31 which provides that on making an award under S. 11, the Collector shall tender payment of compensation awarded by him to the persons interested or entitled thereto according to the award. It follows that not tendering payment of compensation awarded under the award would not make it incomplete. Therefore making of the award within the specified period satisfies the requirements of S. 11-A. Payment of compensation under the award need not be within two years from the date of the publication of the declaration to save the land acquisition proceedings from getting lapsed under that section. It is desirable to tender the payment of compensation awarded by the Collector as immediately after the award as is practicable and delay in payment of compensation should be avoided

but it must be noticed here that the interest of the awardee is amply safeguarded by amended provisions of S. 34 of the Act against any possible delay in payment/deposit of compensation.

6. For the aforesaid reasons, I do not find any merit in the writ petition. The writ petition is accordingly dismissed but without costs having regard to the circumstances of the case. Advocate's fee Rs. 200/-.

7. Petition dismissed.

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