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Court : Andhra Pradesh

Decided On : Aug-18-1992

Reported in : 1993(2)ALT185

Judge : M.N. Rao and ;Reddeppa Reddi, JJ.

Acts : Land Acquisition Act, 1894 - Sections 12(2), 18, 18(1) and 18(2); Andhra Pradesh State Land Acquisition (Amendment) Act, 1959; Constitution of India - Article 226

Appeal No. : Writ Petition No. 2112 of 1988

Appellant : Sarva Reddy and ors.

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

Advocate for Def. : Govt. Pleader

Advocate for Pet/Ap. : B. Purushotham Reddy, Adv.

Disposition : Petition allowed

Judgement :
ORDER

M.N. Rao, J.

1. 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 under Section 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 under Section 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 under Section 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 under Section 12(2) of the Act, within two months from the date of service of the notices they are entitled to require the District Collector, under Section 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 under Section 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.' Under

Section 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 under Section 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 under Section 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 under Section 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.

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