SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Revappa Vs. the Govt., of A.P., Rep., by Its Princip

Revappa Vs. the Govt., of A.P., Rep., by Its Princip

SooperKanoon Citation : sooperkanoon.com/926400

Court : Andhra Pradesh

Decided On : Dec-22-2011

Judge : C.V. Nagarjuna Reddy, J.

Acts : Land Acquisition Act 1894 - Section 11, 4(1), 9(1), 10, 9(3), 10, 18, 5A, 13-A, 18(1).

Appeal No. : WRIT PETITION No.31566 of 2010

Appellant : Revappa

Respondent : The Govt., of A.P., Rep., by Its Principal Secretary, Major Irrigation Department, Hyderabad and ors

Advocate for Pet/Ap. : V. Ravi Kiran Rao, Adv.

Judgement :

C.V. NAGARJUNA REDDY, J.

ORDER

1. This Writ Petition is filed for a Mandamus to direct respondent No.3 to pay compensation to the petitioner in respect of the land admeasuring Ac.0.27 guntas in Sy.No.40 of Gopanpally Village, Bichkunda Mandal, Nizamabad District (for short, "the subject land"), in terms of award, dated 07.04.2010, passed by him.

2. I have heard Sri V. Ravi Kiran Rao, learned counsel for the petitioner and the learned Assistant Government Pleaders for Land Acquisition and Endowments representing respondent Nos.2 and 3 and respondent No.4 respectively.

3. The subject land was notified for acquisition for construction of Lendi Inter State Project. The land was notified in the name of the wife of the petitioner. The petitioner averred that during the pendency of the acquisition proceedings, his wife died and that he has pursued the acquisition proceedings. The petitioner has narrated several steps taken by the Land Acquisition Officer in the course of acquisition proceedings such as publication of notification under Section 4(1), declaration under Section 6 and issuance of notices under Sections 9(1) and 10 and 9(3) and 10 and holding of award enquiry in the month of March 2009. He has further averred that on considering his claim, respondent No.3 has determined compensation at Rs.52,290/- and submitted the same to respondent No.2 for his approval on 07.04.2010. When the petitioner has not received the compensation amount, he made enquiries, which revealed that respondent No.4 has approached respondent No.3 with a representation that the land in question belongs to Sri Hanuman Temple, Gopannapally Village, Bichkunda Mandal and requested not to disburse the compensation amount. Thereafter, respondent No.3 has issued a notice to the petitioner's son to produce documentary evidence in support of his claim. Feeling aggrieved by non-payment of compensation and the attempt of respondent No.3 to hold an enquiry on the representation of respondent No.4, the petitioner filed the present Writ Petition.

4. No counter affidavit is filed on behalf of respondent Nos.1 to 3 despite adjourning the case on two occasions. Respondent No.4 filed a counter affidavit, wherein it is inter alia stated that the land in question belongs to Mahadev Swamy (lord Shiva) temple and the same is Jafti Inam, as evident from Khasra Pahani, Setwar and Inam Takta; that the wife of the petitioner in collusion with the revenue officials has got her name wrongly incorporated as owner and possessor without notice to the temple and that as the petitioner is not entitled for any compensation, respondent No.4 has made a representation to respondent No.3 with a request to pay compensation after obtaining certified copies of pahani for the year 1954-55, setwar, tonchplan, sketch map etc.

5. Sri V. Ravi Kiran Rao, learned counsel for the petitioner, submitted that once an award is passed under Section 11 of the Land Acquisition Act 1894 (for short, "the Act"), the Land Acquisition Officer becomes functus officio and that he cannot therefore embark upon an enquiry into the respective rights of the parties. He further submitted that if any person interested who participated in the award enquiry, made a request for reference of the dispute to the civil Court under Section 18 of the Act within the stipulated time, respondent No.3 can only refer such dispute to the competent civil Court and that respondent No.4 not having made any such claim during the award enquiry, he is not entitled to approach respondent No.3 with a request to pay compensation to the temple.

6. After hearing the learned Assistant Government Pleaders for Land Acquisition and Endowments, I find force in the submission of the learned counsel for the petitioner. The scheme of the Act provides for sufficient opportunities to the persons interested to participate in the acquisition proceedings at various stages. If any person interested in the land seeks to object to the acquisition itself, he can file his objections in the enquiry that may be held under Section 5A of the Act. If such person does not intend to object to the acquisition of land, he is entitled to file his claim before the Land Acquisition Officer in the award enquiry, which is to be held after issuance of notices under Sections 9(1) and 10 and 9(3) and 10 of the Act. Even if individual notices have not been issued under Sections 9(3) and 10, any person interested is entitled to file his objections in pursuance of the general notice issued under Sections 9(1) and 10 of the Act. The petitioner has categorically referred to the various dates on which notices were published. It is not the case of respondent No.4 that there was any procedural illegality in publication of notices thereby disabling him from participating in the award enquiry. Respondent No.4, thus, not having participated in the award enquiry and allowed the award to be passed, cannot be permitted to approach respondent No.3 thereafter by making a claim that the petitioner is not entitled to claim compensation. As rightly submitted by the learned counsel for the petitioner, the Land Acquisition Officer becomes functus officio after passing the award and he cannot meddle with the award except to the extent of correction of clerical or arithmetical errors within the time stipulated under Section 13-A of the Act.

7. Under Section 18(1) of the Act, if any person interested has not accepted the award, he can make a request for reference of the dispute relating to all or any of the matters mentioned thereunder to the competent civil Court. In my opinion, the phrase "any person interested" is referable to those persons, who are interested and who have participated in the award enquiry by making their claims. Any other interpretation would lead to an absurdity where even a stranger, who did not participate in the acquisition proceedings, by masquerading as "the person interested" may try to prevent the genuine owner of the property from receiving the compensation by raising frivolous objections and seeking reference of the dispute to the civil Court. This would cause serious prejudice to the real owner of the acquired property and defeats the legislative purpose. It is settled law that the interpretation, which advances the legislative purpose, shall be preferred to the one which defeats such purpose (see Sandeep Structures (P) Ltd., v. Maharashtra Small Scale Industries Development Corporation1). If literal interpretation leads to absurdity, the same should be avoided (see Bhagwan Das v. State of Utter Pradesh2).

8. On account of failure of respondent No.4 to participate in the award enquiry, he cannot be considered as "any person interested" within the meaning of Section 18(1) of the Act. Respondent No.3 cannot therefore entertain the representation of respondent No.4 and withhold payment of compensation to the petitioner. At best, respondent No.4 is entitled to approach the competent Court of law for declaration of title and seek appropriate interim relief.

9. For the abovementioned reasons, the Writ Petition is allowed. As regards payment of compensation, respondent No.4 is allowed one month's time to avail appropriate remedy before the competent Court. Respondent No.3 shall withhold payment of compensation for a period of one month. If respondent No.4 fails to secure any order from the competent Court within the said period of one month, respondent No.3 shall pay compensation to the petitioner in terms of the award.

10. As a sequel, WPMP.No.40151 of 2010 is disposed of as infructuous.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com