

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition No.6330 of 2014

ORDER:

This Writ Petition is filed with the following prayer:

'This Hon'ble Court may be pleased to issue a Writ, more particularly a Writ of Mandamus against the respondents declaring the act of the respondents as arbitrary, illegal, without jurisdiction and against the principles of natural justice for not referring the matter to the civil court under section 18 of the Land Acquisition Act, 1894, for the proper adjudication for enhancement of the compensation in the land acquisition proceedings regarding the Sy.No.645 to the extent of Ac.12-23 gts Situated at Village Bhainsa, Mandal Bhainsa, District Adilabad, which is being acquired for the public purpose to wit for due submergence in SUDDAVAGU PROJECT BHAINSA (RIGHT FLANK), as per notification in the district Gazette No.1/2001 dated 08-01-2001 Proc.No.1 and direct the respondents to refer the matter to the Civil Court, Nirmal, for the proper adjudication pertaining to the enhancement of the compensation according to the market value and also pass such other order of orders as the Honble court deem fit and proper in the circumstances of the case.'

2. None appears for the petitioner. Heard learned Government Pleader for Land Acquisition appearing for respondent Nos.1 to 3 and perused the record.

3. The facts of the case in nutshell as set out in the affidavit filed in support of the Writ Petition are that the petitioner's husband was owner and possessor of agricultural land in Sy.No.645 situated at Bhainsa Village,

Nirmal Mandal, Adilabad District (now Nirmal District); that out of the land belonging to the petitioner's husband, land to an extent of Acs.12.23 guntas was acquired by the respondents for sub-mergence due to Suddavagu Project Bhainsa (Right Flank) by issuing land acquisition notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act'); and that the respondents-authorities pursuant to the notification issued under Section 4(1) of the Act have passed award dt.07.03.2002 in respect of the petitioner's husband's land and other lands getting affected by the sub-mergence.

4. It is the further case of the petitioner that on the respondents passing the award acquiring the land and determining the compensation payable thereunder, insofar as the land of the petitioner's husband to an extent of Acs.12.23 guntas in Sy.No.645 of Bhainsa Village is concerned, as there were rival claims, the District Collector had made a reference under section 30 of the Act to the Court for resolving the dispute as to apportionment of compensation of the land and the compensation; that on the District Collector making reference to the Court under Section 30 of the Act, the reference was taken on record by the Court, *vide* O.P.No.74 of 2003 on the file of the Senior Civil Judge at Nirmal; that the trial Court by its order dt.11.02.2013 had held that the petitioner herein being the legal representative of claimant No.5 in the award proceeding is entitled to

receive compensation to the extent of Acs.12.23 guntas out of the acquired land in Sy.No.645.

5. It is the further case of the petitioner that on the competent Court adjudicating the dispute as to the apportionment on a reference under Section 30 of the Act, by its order dt.11.02.2013, the petitioner not agreeing to the compensation determined under the award, had approached the respondents-authorities and submitted an application on 15.03.2013, seeking reference to Court under Section 18 of the Act for enhancement of compensation.

6. Petitioner further contends that only upon the competent Court adjudicating the dispute as to apportionment on a reference made by the District Collector under Section 30 of the Act, holding the claimant No.5 being entitled to receive compensation and the petitioner having come on record as legal heir of claimant No.5 in the O.P.No.74 of 2003, would be entitled to make application seeking reference under Section 18 of the Act for enhancement of compensation in respect of the land acquired to an extent of Acs.12.23 guntas; that in spite of petitioner submitting application on 15.03.2013 after adjudication of reference under Section 30 of the Act, within the time prescribed under the Act, the same is not referred to the Civil Court till date. Thus, the petitioner contends that the inaction on the part of the respondents-authorities in making reference to

the Civil Court under Section 18 of the Act is illegal, arbitrary and contrary to the provisions of the Act.

7. *Per contra*, learned Government Pleader appearing for the respondent Nos.1 to 3 would submit that on the respondents-authorities passing award, the claimant if is not agreeable to the amount of compensation is required to submit an application to the District Collector, seeking reference to the Court under Section 18 of the Act either within six weeks from the date of Collector's award if he was present or represented before the Collector or two months from the date of service of the notice from the Collector under Section 12(2) of the Act.

8. Learned Government Pleader thus contends that as the petitioner did not submit application though had claimed her husband pursuing the matter for enhancement of compensation, since, no application is submitted seeking to refer the matter to Court under Section 18 of the Act, the application submitted by the petitioner herein on 15.03.2013 cannot be considered as having been filed in time or the authority having failed to make reference to Court for determination of the compensation payable.

9. Learned Government Pleader would further submit that nothing prevented the petitioner's husband to file an application seeking reference to Court under Section 18 of the Act on passing of Award, even if there

existed *inter se* disputes with regard to the subject land requiring the District Collector to make reference to Court for resolving the dispute as to apportionment. Thus, it is contended that the claim of the petitioner that the application filed by her on adjudication of the dispute of apportionment on reference made under Section 30 of the Act cannot be considered as within time for the respondents-authorities to refer the same to Court under Section 18 of the Act.

10. I have taken note of the respective contentions urged.

11. Firstly, it is to be noted that seeking reference to Court by submitting an application under Section 18 of the Act is a right, which is conferred on a claimant in four types of cases namely, (a) objection as to measurement of the land (b) amount of compensation payable (c) to whom it is payable and (d) apportionment of the compensation among the persons interested. On the other hand, Section 30 of the Act is a duty whereby the Collector is required to make reference to Court only if (i) any dispute relating to apportionment of the compensation either in full or in part thereon (2) as to the persons to whom the compensation is payable either in full or in part thereof, as the said authority is not conferred with powers to adjudicate *inter se* disputes. Thus, requirement to refer the dispute in the aforesaid two situations is a duty that is cast on the authority. Thus, Sections 18 and 30 of the Act operate in two different spheres and are not interconnected. The said principle has also been

stated by the Hon'ble Supreme Court in the decision in *Sharda Devi vs. State of Bihar*¹.

12. In the facts of the present case, though an award was passed in respect of the land acquired from the petitioner's husband to an extent of Acs.12.23 guntas under award proceedings dt.08.01.2001, the District Collector on noticing the existence of dispute as to whether it is the petitioner's husband who is entitled to receive compensation or the other claimants, who had put up the rival claim to the aforesaid extent of land had referred the matter to Court for resolving the dispute. Upon the District Collector making reference to Court under Section 30 of the Act, the said reference was numbered as O.P.No.74 of 2003.

13. The Court thereafter had decided the dispute as to apportionment of the land and held that the rival claim to the subject land put up by the others cannot be accepted. It is only when the competent Court had passed an order adjudicating the rival claims, the rights of the parties can be said to have been crystallized. Thus, it is only on 11.02.2013, the petitioner herein being the legal representative of the 5th respondent – claimant in the award is declared as entitled to receive the compensation

¹ (2003) 3 SCC 128

in respect of the land to an extent of Acs.12.23 guntas belonging to her husband having acquired and not at any time before.

14. This Court considering a similar fact situation in W.P.No.27676 of 2024, referring to the decision of the Apex Court in the case of *Madan and another v/s. State of Maharashtra*² wherein it was observed at para as under:

'11. A cursory glance at the provisions of Sections 18 and 30 of the Act, extracted above, may suggest that there is some overlapping between the provisions inasmuch as both contemplate reference of the issue of apportionment of compensation to the Court. But, a closer scrutiny would indicate that the two sections of the Act operate in entirely different circumstances. While Section 18 applies to situations where the apportionment made in the award is objected to by a beneficiary thereunder, Section 30 applies when no apportionment whatsoever is made by the Collector on account of conflicting claims. In such a situation one of the options open to the collector is to make a reference of the question of apportionment to the Court under Section 30 of the Act. The other is to relegate the parties to the remedy of a suit. In either situation, the right to receive compensation under the award would crystallize after apportionment is made in favour of a claimant. It is only thereafter that a reference under Section 18 for enhanced compensation can be legitimately sought by the claimant in whose favour the order of apportionment is assed either by the Court in the reference under Section 30 or in the civil suit, as maybe.'

² (2014) 2 SCC 720

vide order dt.11.11.2024, held that the entitlement to receive compensation would crystallize only when the Court to which a reference is made under Section 30 of the Act determining the petitioner's entitlement.

15. Thus, in the facts of the present case, the petitioner's entitlement to receive compensation has been crystallized only on 11.02.2013 when judgment and decree is passed in O.P.No.74 of 2003. It is only thereafter, the petitioner could have submitted an application to the District Collector seeking reference to Court under section 18 of the Act with regard to the compensation determined under the award.

16. The petitioner having submitted an application on 15.03.2013 seeking reference to Court under Section 18 of the Act, the said application being within two months from the date of the notice reckoned with the date of the order of the Court, this Court is of the view that the said application submitted by the petitioner is to be considered as having been filed in time for the authorities to refer the same to Court under Section 18 of the Act.

17. Accordingly, the Writ Petition is disposed of directing the respondents-authorities to refer the application submitted by the petitioner on 15.03.2013 to the competent Court in terms of Section 18 read with

2(d) of the Act within a period of six weeks from the date of receipt of a copy of the order. No order as to costs.

18. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

T. VINOD KUMAR, J

Date:19.02.2025

GJ