SUPREME COURT OF INDIA

Government of A.P.

Vs.

Kollutla Obi Reddy

C.A.No.3274-75 of 2003

(Arijit Pasayat and H.K.Sema JJ.)

10.08.2005

JUDGMENT

Arijit Pasayat, J.

1. In these appeals challenge is to the judgment of a Division Bench of the Andhra Pradesh High Court setting aside the orders/awards made under the *Land Acquisition Act, 1894* (in short the 'Act') and directing Land Acquisition Officer to pass fresh awards keeping in view the observations made in the judgment.

2. A brief reference to the factual aspects would suffice.

3. In 1956 *Nagarjuna Sagar Project (Acquisition of Lands) Act, 1956* (in short the 'Nagarjuna Act') was enacted. Under the said Act Sections 11 and 23 of the Act were amended. In 1979 writ petition was filed by one K. Rangaiah and others questioning constitutional validity of Nagarjuna Act. A Division Bench of the Andhra Pradesh High Court by its judgment dated 31.8.1979 in writ petition No.2110/79 (*K. Rangaiah v. State of A.P.*[1]) held that the amendment to Section 23(1) (first clause) of the Act as made by the Nagarjuna Act is violative of second proviso to Article 31-A of the *Constitution of India, 1950* (in short the 'Constitution') only so far it relates to acquisition of land within the ceiling limit and is under personal cultivation. The correctness of the judgment was questioned before this Court. Several other writ petitions were also decided following K. Rangaiah's case (supra). All the Civil Appeals against those judgments were taken up by a Constitution Bench in Civil Appeal Nos.1220-42/82 and connected matters.

4. This Court did not go into the constitutional issues in view of the fact that respondents were small land owners having less than one acre of land. Possession has been taken in the lands involved in those appeals on different dates between 1980 and 1984. Being of the impression that the notifications had lapsed, fresh notifications were issued under Sections 4 and 6 in 1991. Land Acquisition Officer after due inquiry determined the market value in accordance with the Nagarjuna Act and the awards were made in 1992. In February 1997 and thereafter writ petitions were filed questioning validity of the actions taken and prayed for

direction to determine the market value on the date of notification in 1991 under Section 4(1) of the Act without resorting to Nagarjuna Act.

5. The Division Bench held that subsequent notifications were really unnecessary in view of the decision of this Court in Allahabad Development Authority and Ors. v. Nasiruzzaman and Ors. 9). It was held that when possession of the land has been taken pursuant to Section 17 of the Act, the provisions of Section 11-A do not have any application. Therefore, subsequent notifications were held to be of no consequence. After being held so, the High Court remitted the matter to the Land Acquisition Officer by quashing the awards and directed passing of fresh orders.

6. Learned counsel for the appellant-State and its functionaries submitted that the High Court did not consider the specific plea raised regarding delayed presentation of writ petition after long passage of time. Further the writ- petitioner had not effectively availed the remedies available under the Act and could not have indirectly asked for interference with the awards made long prior to the filing of the writ petitions. It was further submitted that the undisputed position is that references were pending in terms of Section 18 of the Act when writ petitions were filed. That being so, the High Court should not have entertained the writ petitions.

7. In response, learned counsel for the respondents submitted that this Court's order in the earlier matters dated 8th July, 1996 to which reference has been made earlier, did not in essence find fault with the reasoning of the High Court in the earlier decision. Further, the Land Acquisition Officer had passed the awards in some cases after the impugned judgments of the High Court were passed and at this length of time this Court should not interfere.

8. We shall first deal with the plea relating to the maintainability of the writ petition filed after long passage of time. In a catena of decisions this Court has held that High Court should not entertain writ petitions when there is delayed challenge to notification under Section 4(1) and declaration under Section 6 of the Act. (See Aflatoon and Ors. v. Lt. Governor of Delhi), State of T.N. and Ors. v. L. Krishnan and Ors.) and Municipal Corporation of Greater Bombay v. Industrial Development Investment Co. Pvt. Ltd. and Ors. 2).

9. The High Court was moved in these matters by writ petitions long after Section 4(1) Notification and Section 6 declarations were made. On that ground alone the writ petitions should not have been entertained. Additionally, the respondents clearly accepted that references in terms of Section 18 were pending. The High Court has not even indicated any reason as to why the writ petitions were being entertained when the references in terms of Section 18 were pending. On that score also the High Court's judgment becomes unsustainable.

10. We, therefore, set aside the judgment of the High Court. The references which were pending and have been closed in view of the impugned judgment of the High Court shall be revived. In some of these cases also the fresh awards have been passed. They are set aside and the original reference stands revived. Only references which were pending on the date of

the High Court judgment i.e. 14.3.1997 shall stand revived. Other claims and adjudications, if any, pursuant to the High Court's impugned order in these cases shall have no effect.

11. The appeals are accordingly allowed with no order as to costs.

[1]*1980 AIR(SC) 165*