

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 14248 OF 2015

(Arising out of Special Leave Petition (Civil) No.8583 of 2013)

Sri Ch. Narasimha Rao & Ors.

.....Appellants

Versus

Land Acquisition Officer, Eluru & Ors.

.....Respondents

J U D G M E N T

ANIL R. DAVE, J.

1. Leave granted.
2. Being aggrieved by the judgment delivered by the High Court of Judicature of Andhra Pradesh at Hyderabad dated 10th October, 2012, in Writ Appeal No.1274 of 2012, this appeal has been preferred by the land owners, whose lands have been acquired.

3. The issue involved in this appeal is whether Reference Applications filed by the appellants under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act”), was beyond statutory period. For the purpose of ascertaining the said fact, it would be necessary to record some of the relevant facts pertaining to the acquisition proceedings.

4. Notification under Section 4 of the Act for the purpose of acquiring the land for establishment of Auto Nagar at Eluru had been issued on 27th August, 1993. In pursuance of the said notification, notification under Section 6 of the Act had been published on 8th October, 1993. Looking at the facts of the case, the Authorities had invoked urgency clause and enquiry under Section 5-A of the Act had been dispensed with.

5. Being aggrieved by the aforesated acquisition proceedings, the land owners i.e. the appellants had challenged the validity of notification under Section 6 of the

Act and had also challenged invocation of urgency clause, whereby enquiry under Section 5-A of the Act had been dispensed with. The said petition had been allowed by the High Court of Andhra Pradesh and declaration under Section 6 of the Act had been quashed. It was held by the High Court that enquiry under Section 5-A of the Act had been mechanically dispensed with and it was also directed that such an enquiry should be held. The High Court had also given time limit for holding the enquiry.

6. In pursuance of the aforestated direction of the High Court, once again, declaration under Section 6(1) of the Act had been made on 7th August, 1996 and subsequently Award No.2 of 1998 had been made on 7th January, 1998.

7. Once again, Writ Petition No.32806 of 1998 challenging the validity of notification under Section 6 had been filed in November, 1998 on the ground that the said notification was not issued within the time limit prescribed under the Act.

Ultimately, the said petition had been dismissed on 27th August, 1999, but being aggrieved by the order of dismissal, Writ Appeal No.1337 of 1999 had been filed by appellants before the Division Bench of Andhra Pradesh High Court. The said appeal had been allowed by the High Court on 23rd July, 2001 and thereby the acquisition proceedings had come to an end. The review application filed against the judgment delivered by the Division Bench had also been rejected by the High Court.

8. In the aforestated circumstances, a Special Leave Petition challenging the abovestated judgment had been filed by Andhra Pradesh Industrial Infrastructure Corporation Limited (APIIC), for whose benefit the land was sought to be acquired for establishment of Auto Nagar. Leave was granted in the said Special Leave Petition, which was recorded as Civil Appeal Nos.304-305 of 2005. An interim order was also passed in the said appeals for maintaining status-quo with regard to

possession as it existed on 10th January, 2005. During the pendency of the aforesaid appeals before this Court, the Land Acquisition Officer had filed a petition under Section 31(2) of the Act before the District Court. The said proceedings had been rejected by the District Judge on the ground that the acquisition proceedings were pending before the Supreme Court and the Supreme Court had given a direction for maintaining status-quo.

9. Ultimately, this Court allowed Civil Appeal Nos.304-305 of 2005 on 15th September, 2011, whereby the judgment delivered by the Division Bench of Andhra Pradesh High Court in Writ Petition No.1337 of 1999 had been set aside. Thus, ultimately, the acquisition proceedings were upheld by this Court.

10. As the acquisition proceedings had been upheld, the appellants, being aggrieved by the amount of compensation, had filed Reference Applications under Section 18(1) of the Act

on 17th October, 2011. The said reference applications had been rejected on the ground of delay by the Land Acquisition Officer on 21st January, 2012 as the Award in respect of the lands in question had been made on 18th January, 1998.

11. The aforestated proceedings, whereby the reference applications had been rejected by the Land Acquisition Officer, had been challenged before the High Court of Andhra Pradesh on 4th August, 2012 by filing Writ Petition No.24806 of 2012. The said writ petition had been rejected by the learned Single Judge of the High Court on 13th August, 2012 on the ground that the reference applications under Section 18(1) of the Act had not been filed within the time prescribed under the said section. The judgment delivered by the learned Single Judge on 13th August, 2012 had been challenged by the present appellants/land owners by filing Writ Appeal No.1274 of 2012, which was also dismissed on the same ground on 10th October, 2012.

12. Being aggrieved by the aforestated judgment dated 10th October, 2012, this appeal has been filed by the land owners.

13. The learned counsel appearing for the appellants mainly submitted that the applications for reference under Section 18(1) of the Act ought not to have been rejected on the ground of delay. The learned counsel fairly admitted that the applications under Section 18 of the Act were not filed within the time prescribed. According to him, the said applications could not be said to have been filed beyond the period of limitation for the reason that the proceedings regarding acquisition had not been finalized and were pending before different courts, namely before the High Court and before the Apex Court and stay was operating against the acquiring body.

14. The learned counsel submitted that the acquisition had been set aside by the High Court and only by an order dated 15th September, 2011 passed by this Court in Civil Appeal Nos.304-305 of 2005, the acquisition had been confirmed.

The learned counsel further submitted that till the aforestated judgment was delivered by this Court confirming the acquisition proceedings, there was no question of filing any application under Section 18(1) because till that time there was no land acquisition at all. By virtue of the order passed by the Division Bench of the Andhra Pradesh High Court, the acquisition proceedings had been held to be null and void and therefore, the question of filing any application under Section 18(1) of the Act did not arise.

15. Though the Award had been made earlier on 7th January, 1998, the acquisition proceedings had been thereafter set aside. The claimants, who are the land owners, did not collect the amount of compensation as their lands had not been acquired and therefore, there was no reason for them to be aggrieved by quantification of the amount of compensation. He further added that only upon getting intimation of the order passed by this Court dated 15th September, 2011,

whereby land acquisition proceedings have been confirmed and whereby the lands stood acquired, the question with regard to getting the amount of compensation from the District Court arose and only at that time the appellants-the land owners, could have thought about the quantum of compensation awarded to them in respect of their lands acquired.

16. In the aforesaid circumstances only on 15th September, 2011, by virtue of the judgment delivered in Civil Appeal Nos. 304-305 of 2005, this Court finally declared that the lands of the appellants stood acquired and therefore, the appellants filed applications under Section 18(1) of the Act on 17th October, 2011. He, therefore, submitted that the applications under Section 18(1) of the Act were not beyond the period prescribed under the Act.

17. On the other hand, the learned counsel appearing for the respondent-Authorities could not deny the aforesaid factual

aspect with regard to the proceedings which had taken place and the final judgment delivered by this Court on 15th September, 2011.

18. Upon hearing the learned counsel and looking at the peculiar facts of the case, in our opinion, this appeal deserves to be allowed.

19. It is an admitted fact that the acquisition proceedings had been finally confirmed by the judgment delivered by this Court on 15th September, 2011. Till the said judgment was delivered by this Court, there was no acquisition of the land and therefore, there was no need for the appellants to file any application under Section 18(1) of the Act. Upon knowing the fact that the lands had been acquired by virtue of the judgment dated 15th September, 2011 delivered by this Court, the appellants filed the applications under Section 18(1) of Act on 17th October, 2011. In the aforesaid circumstances, in our opinion, the applications filed under Section 18(1) of the

Act should not have been rejected as they were filed immediately after pronouncement of the judgment by this Court.

20. For the aforesaid reasons, we allow the appeal and set aside the judgment delivered by the High Court and we direct that without going into the issue of delay or limitation, the applications filed by the appellants under Section 18(1) of the Act shall be entertained in accordance with law.

21. The appeal stands disposed of as allowed with no order as to costs.

JUDGMENT

.....J.
(ANIL R. DAVE)

.....J.
(ADARSH KUMAR GOEL)

NEW DELHI
DECEMBER 09, 2015.