

Non-Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 5647 OF 2006**

The Land Acquisition Officer, A.P.

Appellant(s)

VERSUS

Ravi Santosh Reddy(D) by L.Rs.

Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1) This appeal is filed against the final order dated 13.04.2001 of the High Court of Judicature, Andhra Pradesh at Hyderabad in C.R.P. No. 928 of 1998 wherein the High Court dismissed the revision filed by the appellant herein against the order dated 22.10.1997 passed by the Subordinate Judge at

Bhongir, Nalgonda Dist. In E.A. No. 41 of 1997 in E.P. No. 34 of 1993 in O.P. No.7 of 1987.

2) Few facts need mention for the disposal of the appeal, which involves short point.

3) The appellant-State acquired 53 acres of land pursuant to the notification issued under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") on 11.05.1978. This notification included the land belonging to the respondents' predecessors measuring around 13 acres 18 guntas situated in Nagireddy village Palli in District Nalgonda in AP. It was acquired for the purpose of laying down New Broad Gauge line.

4) On 20.03.1980, the Land Acquisition Officer (LAO) by his Award No. 12 of 1980 divided the land into three categories and awarded the compensation to all the landowners whose lands had been acquired including the respondents' predecessor at the rate of

Rs.1100/-, Rs.1200/- and Rs.1700/- per acre respectively.

5) The respondents' predecessor then filed reference in Civil Court (subordinate Judge, Bhongir) under Section 18 of the Act being O.P. No.7 of 1987 for re-determination of the compensation. This reference was referred to Lok Adalat for mutual settlement.

6) On 07.12.1988, in pursuance of the order passed by the Lok Adalat, the subordinate Judge at Bhongir passed an award and enhanced the compensation payable to the respondents. In terms of the award, the respondents were entitled to claim a sum of Rs. 6,42,681/- by way of compensation for his land from the State.

7) The respondents' predecessor then filed the execution petition being E.P. No. 34 of 1993 for realization of the entire decretal amount in terms of the said award. During the pendency of the petition,

the respondents' predecessor died and his legal representatives, i.e., present respondents were brought on record. By order dated 15.09.1997, the executing Court bi-party determined the amount payable to the respondents by the State towards compensation and issued warrants against the judgment-debtor (State) for recovery of the interest amount of Rs.50,000/- and odd as it was found still payable by the State to the respondents due to delay on their part in paying the decretal sum. It is pertinent to mention that this order was not challenged by the State in higher Courts and hence it attained finality.

8) However, the State made an application being E.A. No. 41 of 1997 in E.P. No. 34 of 1993 seeking to recall the order dated 15.09.1997. By order dated 22.10.1997, the executing court dismissed the said application made by the State.

9) Felt aggrieved by this order, the State filed revision petition before the High Court. By impugned order, the High Court dismissed the revision petition. Against the said order, the State has filed this appeal by way of special leave before this Court.

10) Heard Ms. Bina Madhavan, learned counsel appearing for the appellant. Despite notice none appeared for the respondents.

11) Having heard the learned counsel for the appellant-State and on perusal of the record of the case, we find absolutely no merit in this appeal. The impugned order reads as under:

“The only question that arises for consideration in this CRP is as to whether the order dated 15.09.1997, passed in E.P. No. 34 of 1993, directing attachment of the moveables of the petitioner should have been recalled. The order dated 15.09.1997 was passed after giving opportunity of hearing to both the parties. The application seeking recall of the said order was filed on the ground that the decree-holder did not file any calculation memo.

In the opinion of this Court, as rightly observed by this Court, as rightly observed by the learned trial Judge, if there is any error

in the order dated 15.09.1997, the same can be rectified by the higher Courts. As the learned trial Judge has not exercised his discretion, this Court does not see any reason to interfere therewith.

For the reasons aforementioned, the CRP is dismissed. No costs.”

12) Mere perusal of the impugned order would go to show that the reasoning given by the High Court is just and proper. As rightly held by the High Court, the proper remedy available to the State in this case was to challenge the main order dated 15.09.1997. This order (15.09.1997) was not challenged by the State. It, therefore, attained finality.

13) What was challenged by the State was an order dated 22.10.1997 by which the application made by the State to recall the order dated 15.09.1997 was dismissed by the executing Court. The executing Court was, therefore, justified in rejecting this application by holding that since the order dated 15.09.1997 was not an ex-parte order, it was binding on the State and the

same not having been challenged by them had to be given effect to for realization of decretal amount from the State. The High Court was equally justified in upholding this order of the executing Court by impugned order.

14) Though order dated 15.09.1997 was never under challenge in any proceedings at the instance of the State, yet we perused the said order with a view to find out its sustainability. We find that the executing Court found that the State was liable to pay a sum of Rs.50,000/- towards interest due to delayed payment of decretal sum for the period mentioned therein. It is for realization of this amount (Rs.50,000/-), the warrant of attachment had been issued at the instance of the respondents against the State properties.

15) In our considered opinion, the State unnecessarily pursued this pity matter to this Court in this appeal, which does not involve any arguable point

either on facts or in law nor it involves any point of public importance and nor it involves any substantial money claim. What was involved was only the calculation of payment of interest on the decretal sum for a particular period. In this Court also, learned counsel was unable to show any kind of illegality or perversity in the said calculation made by the executing Court while working out the liability of the State in paying Rs.50,000/- towards interest. Therefore, it was, in our view, a sheer abuse of process on the part of the State to pursue a matter in filing a misconceived appeal against an interim order, which we do not approve. It is unfortunate that a genuine claim of the respondents was not satisfied by the State for such a long time.

16) Be that as it may, we find no merit in this appeal. It is accordingly dismissed with cost of Rs. 10,000/- payable to the respondents.

17) The State is directed to pay the unpaid decretal sum, if any, including the amount, which is the subject matter of this litigation together with the cost amount after proper verification within three months from the date of this order.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[ASHOK BHUSHAN]

New Delhi,
May 18, 2016.

JUDGMENT