

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY, THE TWENTY FOURTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT APPEAL NO: 1423 OF 2024

Writ Appeal under clause 15 of the Letters Patent preferred against the order dated 22/10/2024 passed in the W.P.No. 21457 of 2024 on the file of the High Court.

Between:

Bere Pochaiyah, S/o Rajeeru, aged about 45 years, Occupation Agriculture, resident of Namnoor Village, Hazipur Mandal, Mancherial District, Telangana State.

...APPELLANT/PETITIONER

AND

1. State of Telangana, Represented by the Principal Secretary, Irrigation and C. A. D. Department, Secretariat, HYDERABAD- 500 022(T. S.).
2. Executive Engineer, Irrigation and C. A. D., Sripada Yellampally Project, MANCHERIAL, T. S.
3. District Collector, L. A., Adilabad, presently District Collector, L. A. , Mancherial District, at MANCHERIAL.
4. Special Deputy Collector, L. A., Unit- II, Dr. B. R. Ambedkar PCSS Project, Mancherial Head Quarters, NASPOOR(Post), Mancherial District, T. S.
5. Revenue Divisional Officer, Mancherial Division, MANCHERIAL (Post and District), T. S.
6. Tahsildar, Mancherial Mandal, MANCHERIAL (Post and District), T. S.

...RESPONDENTS/RESPONDENTS

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 3rd and 4th RESPONDENTS / 3rd and 4th Respondents herein to consider by

disposing of the representation dated. 18- 06- 2024 of the APPELLANT / Petitioner herein forthwith pending disposal of the above writ appeal

Counsel for the Appellant: SRI. K RAJANNA

Counsel for the Respondent Nos.1&2: SRI SHANTHI NEELAM GP FOR IRRIGATION AND COMM AREA DEV

Counsel for the Respondent Nos.3 to 6: SRI E. RAMESH CHANDRA GOUD GP FOR LAND ACQUISITION

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT APPEAL No.1423 of 2024

JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. K.Rajanna, learned counsel for the appellant.

Ms. Shanthi Neelam, learned Government Pleader for Irrigation and Command Area Development Department for the respondents No.1 and 2.

Mr. E.Ramesh Chandra Goud, learned Government Pleader for Land Acquisition for the respondents No.3 to 6.

2. This intra court appeal is filed against the order dated 22.10.2024 passed by the learned Single Judge by which the writ petition preferred by the appellant, namely W.P.No.21457 of 2024, has been dismissed.

3. Facts giving rise to filing of this appeal briefly stated are that the appellant claims to be the owner of house

bearing Door No.4-33/2 situated at Namnoor Village, the then Mancherial Mandal, presently Hazipur Mandal, Mancherial District. According to the appellant, the entire village was needed for a public purpose. Thereupon, the proceedings under the Land Acquisition Act, 1894 (hereinafter referred to as, "the Act"), were initiated and a notification under Section 4(1) of the Act was issued on 18.01.2008 and an award was also passed on 24.12.2009 acquiring the entire Namnoor Village. It is the case of the appellant that he was the owner of house bearing No.4-33/2. However, the compensation was not paid to the appellant in respect of the aforesaid house.


4. Thereupon, the appellant submitted a representation on 18.06.2024 in which a prayer was made to issue a notification under Section 4(1) of the Act in respect of the house bearing No.4-33/2. However, the representation submitted by the appellant failed to evoke any response. Thereupon, the appellant filed the writ petition in which a prayer was sought to issue a notification under Section 4(1) of the Act in respect of the house bearing No.4-33/2. The

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aforsaid writ petition has been dismissed by the learned Single Judge by an order dated 22.10.2024. Hence, this appeal.

5. Learned counsel for the appellant submits that the learned Single Judge grossly erred in deciding the writ petition on the basis of the instructions received by the respondents. It is further submitted that the appellant had furnished the property tax receipts on the basis of the information received by him under the Right to Information Act, 2005. It is also submitted that subsequent to deciding the writ petition filed by the appellant, in an another similar writ petition, the learned Single Judge has disposed of the writ petition with a direction to the respondents to decide the representation.

6. At the outset, we apprised the learned counsel for the appellant that the appropriate remedy for the appellant is to seek review of the order dated 22.10.2024 passed by the learned Single Judge. However, the learned counsel for the



appellant submitted that this Court may remand the matter to the learned Single Judge.

7. We have considered the submissions made by the learned counsel for the appellant and have perused the record.

8. Admittedly, the proceedings under the Act were initiated in the year 2008. The award was passed on 24.12.2009. The house bearing No.4-69/1 standing in the name of the appellant and the house bearing No.4-33 standing in the name of his mother were admittedly acquired. The appellant also received compensation in respect of the house bearing No.4-69/1 in the year 2010. There is no material on record to indicate that the appellant either filed any objection in an enquiry under Section 5-A of the Act or raised any objection before the Land Acquisition Officer. After a period of about 16 years from the date of passing of the award, for the first time, the appellant submitted a representation seeking to issue a notification under the Act. It is pertinent to note that the

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Land Acquisition Act, 1894, has already been repealed. Therefore, the relief as prayed for by the appellant cannot be granted. In addition, the learned Single Judge has found in the property tax receipts produced by the appellant that after door No.4-33, '/2' has been inserted. There is a dispute with regard to existence of house number in respect of which the appellant is seeking compensation after a period of about 16 years. The aforesaid disputed question of fact cannot be adjudicated in a writ proceeding under Article 226 of the Constitution of India.

9. For the aforementioned reasons, we are not inclined to interfere with the order passed by the learned Single Judge. However, liberty is reserved to the appellant to seek the remedy before the civil court to prove the existence of the aforesaid house and to claim compensation in accordance with law, if so advised.

10. The writ appeal is accordingly disposed of.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

//TRUE COPY//

SD/-I. NAGALAKSHMI
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. One CC to SRI. K RAJANNA Advocate [OPUC]
2. Two CCs to GP FOR IRRRI AND COMM AREA DEV ,High Court for the State of Telangana. [OUT]
3. Two CCs to GP for Land Acquisition, High Court for the State of Telangana at Hyderabad. [OUT]
4. Two CD Copies

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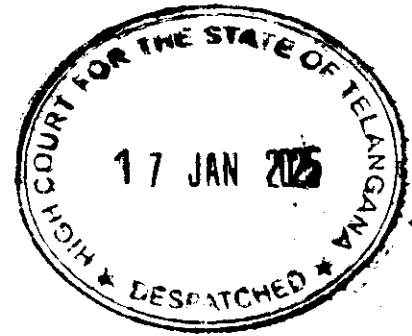
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HIGH COURT

DATED:24/12/2024

JUDGMENT

WA.No.1423 of 2024



DISPOSING OF THE WRIT APPEAL
WITHOUT COSTS

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