

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.37072 OF 2014

ORDER:

The writ petition is filed with the following prayer:

“.....to issue any appropriate Writ, order or direction preferably a writ in the nature of Writ of mandamus declaring the action of 3rd respondent issuing notices u/s. 9(3) and 10 of the L.A. Act dated 15.11.2014 which is repealed, proposing to hold award enquiry on 03.12.2014 and 04.12.2014 in respect of lands at Kesarapally Village, Gannavaram Mandal, Krishna District without adopting the procedure contemplated under the Right to Pay Compensation and Transparency in Land acquisition, Rehabilitation and Re-Settlement Act, 2013, as illegal, arbitrary, mala fide, without authority and consequently direct the respondents to hold enquiry under the provisions of New Act by setting aside the questioned notices issued under L.A Act and pass.....”

The petitioner claims to be the owner and possessor of agricultural land in an extent of Ac.22.00 cents in Sy.Nos.249, 250 and 256/1 of Kesarapalli Village, Gannavaram Mandal, Krishna District.

It is the case of the petitioner that the 1st respondent sought to acquire land for expansion of the existing Gannavaram Airport. Draft Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') was issued for acquisition of petition land. That at the instance of the then local Minister, the draft notification was hurriedly published in the newspapers by giving go bye to the provisions of the Act. The petitioner and other similarly situated persons filed W.P.No.36335 of 2013 and the same is pending. It is common case that they are interested in giving the land for expansion of existing Airport provided steps under the provisions of the New Act i.e., Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act 30 of 2013) are taken.

It is the further case of petitioner that issuing of notices by the respondents under Section 5-A of the Act calling for objections and publishing declaration under Section 6 of the Act and now issuing notices under Section 9(3) and 10 of the Act is evident that the respondents are taking steps to pay compensation under the

provisions of the Act. It is stated that once Act 30 of 2013 has come into force, the respondents shall not continue to proceed under the provisions of the Act, as continuance is illegal and irregular. Aggrieved by the action of the respondents to hold enquiry under the provisions of the Old Act, the present writ petition is filed.

The other grievance is regarding payment of compensation to petitioners in the subject acquisition. The case of petitioners is that Act 30 of 2013 has come into operation w.e.f., 01.01.2014. The draft declaration is issued on 05.11.2014. Under Section 24 (1) of Act 30 of 2013 in case where no award is passed, the provisions of Act 30 of 2013 procedure as well as enquiry in determination of compensation are applicable. Therefore, the compensation payable for acquisition of subject land is under Section 24(1) of Act 30 of 2013 but not under the Act. The expression 'compensation' is comprehensive enough to take within its fold various benefits referred by Act 30 of 2013. The quantum, extent, rehabilitation benefit etc., to which the petitioners are entitled under Act 30 of 2013 are for the authorities to decide after issuing notice to the petitioners and by following the mandate of Act 30 of 2013.

The issuance of notices under Section 9(3) of Act 1 of 1894 is illegal and contrary to Section 24 of Act 30 of 2013. The impugned notices are set aside. The respondents are directed to determine and pay the compensation according to Act 30 of 2013.

The writ petition is, accordingly, allowed. There shall be no order as to costs.

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

S.V.BHATT, J

1st May, 2015

Lrkm