

IN THE HIGH COURT OF JUDICATURE AT
HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE
OF ANDHRA PRADESH

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W.P.No. 40808 of 2014

Between:

Yanati Srinath Reddy and others

... Petitioner/s

and

The State of Andhra Pradesh and others

-
... Respondent/s

DATE OF JUDGMENT PRONOUNCED: 16.9.2015

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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| 1 | <u>Whether Reporters of Local newspapers may be allowed to see the Judgments?</u> | No |
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| 2 | <u>Whether the copies of judgment may be marked to Law Reports/Journals</u> | No |
| - | | |
| 3 | <u>Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?</u> | No |
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THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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W.P. NO. 40808 of 2014

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ORDER:

Heard learned counsel for the parties.

The petitioners question notification under Section 4 (1) of the Land Acquisition Act, 1894, dated 30.11.2013 as well as declaration dated 3.12.2014 on the ground that the acquisition of land was initially made for establishment of Sri Damodaram Sanjeevaiah Thermal Power Station, but now land in various survey numbers including the land of petitioners to an extent of Ac.30-62 cents is proposed to be acquired for construction of an integrated township/residential colony for the employees of said Thermal Power Station. The petitioners state that enquiry under Section 5-A of the said Act was conducted, they filed objections, and thereafter declaration under Section 6 of the Act was issued. The petitioners allege that about 1700 acres of land in Nelatooru village was acquired for the construction of the said Thermal Power Station and no additional land was required even for the residential

colony. Apart from that, there is a vast extent of Government land available in the vicinity. The petitioners allege that their objections were not considered and they opposed the acquisition as proposed. It is also stated that the petitioners' land is also subject to Andhra Pradesh Lands (Ceiling on Agricultural Holdings) Act, 1973 and is determined as surplus land. The impugned proceedings are a colourable exercise of power.

Initially on 31.12.2014 while issuing notice before admission this Court granted interim suspension of the impugned proceedings. The respondents thereafter filed counter-affidavit and vacate stay petition and at the request of both learned counsel, the writ petition itself was heard.

The counter-affidavit of respondent No.5 denies that there is any change in the purpose for which the land was acquired and says that at several stages the petitioners were given due notice and opportunity of personal hearing and their objections were considered and thereafter only the draft notification was issued. Since the acquisition of land is essential for residential colony of the employees of the said Thermal Power Station, the purpose is closely interconnected with the Thermal Power Station and therefore it is a related public purpose. It cannot be said to

be a different from the originally notified public purpose. It is also stated that the acquisition is presently at the stage of commencement of award enquiry, but on account of interim suspension granted by this Court, further proceedings are held up.

The learned counsel for the petitioners also argued that in view of the fact that the no award is passed so far, the provisions of the Central Act 30/2013 would apply and the learned Government Pleader for Land Acquisition also accepts that the provisions of the said Act 30/2013 would be applicable for the purpose of conducting award enquiry.

Since the objections of the petitioners having been considered with due opportunity given to them and keeping in view the public purpose and related public purpose for which the acquisition is being made, it cannot be said that the notifications issued under Sections 4 (1) and 6 of the Land Acquisition Act, 1894 are vitiated on any ground as the existence of the public purpose cannot be denied. Moreover the land in question is contiguous to the land proposed to be acquired. Hence the petitioners cannot contend that the required land can be acquired from the adjacent Government land. Both the contentions of the learned counsel for the petitioners are, therefore, not tenable and as the acquisition proposed is not only for

Thermal Power Station, but also for allied public purpose which is closely related to it. I do not find any infirmity in the land acquisition proceedings.

Hence the writ petition fails and it is accordingly dismissed. The respondents shall, however, conduct award enquiry in terms of the Central Act 30/2013 and pass appropriate award after notice to the petitioners and other all the objected persons. Miscellaneous applications, if any, shall stand closed. No order as to costs.

VILAS V. AFZULPURKAR, J

Dt. 16.9.2015
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