

THE HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.234 of 2008

ORDER:

The writ petition is filed challenging the notification in Rc.G4/5821/2007, dated 14.12.2007 issued under Section 4(1) of the Land Acquisition Act, 1894, for the purpose of acquiring the agricultural wet land for house sites, in an extent of Acs.4.74 cents of the petitioners' land in survey No.232 of Edupugallu Village, Kankipadu Mandal, Krishna District, as illegal, arbitrary and violative of principles of natural justice.

Heard and perused the material available on record.

Learned counsel for the petitioner prays this Court to implead 'The State of Andhra Pradesh, represented by the Secretary, Revenue (Land Acquisition) Department, Secretariat, Hyderabad' as respondent No.4.

Though several contentions have been raised by the learned Counsel for the petitioners, among them, it is the main contention of the learned Counsel that the action of the first respondent in delegating the powers to the second respondent/Assistant Collector, to conduct enquiry under Section 5-A of the Land Acquisition Act cannot be sustained in law, and as such, he prayed this Court to set aside the Notification impugned. He further submits that the second respondent/Assistant Collector cannot be empowered to acquire the land and the said power cannot be delegated by the District Collector.

The learned Government Pleader for Land Acquisition while placing reliance on G.O.Ms.No.822, Revenue (K) Department, dated 16.07.1985, submitted that the District Collector has the power to delegate the power to the Assistant Collector or Revenue Divisional Officer or Mandal Revenue Officer to acquire the land.

In order to decide the point, it is necessary to extract the G.O., which has been relied on by the leaned Government Pleader and the same reads as under:

“Under Clause (c) of Section 3 of the Land Acquisition Act, 1894 (Control Act.I of 1894), the Governor of Andhra Pradesh appointed Revenue Divisional Officer and the Mandal Revenue Officers in their respective jurisdictions to perform the functions of a Collector, under the Act, for purpose of acquisition of lands for the Construction, extension or improvements of any dwelling house to the poor for the provision of Pathways to Harijanwadass and provision of burial grounds including Pathways to burial grounds to Scheduled Castes and other Weaker Sections of Society.”

Learned Counsel for the petitioners after perusing the said G.O., submitted that the above G.O. speaks about the lands which are proposed to be acquired for the purpose of construction, extension, improvements of any dwelling houses to the poor, pathways to Harijanawadass and provision of burial grounds including pathways to burial grounds to Scheduled Castes and other Weaker Sections of society, whereas the present notification is issued for acquisition of lands for the purpose of providing house sites to the weaker sections. The learned Counsel for the petitioners pointed out that the G.O. referred to above does not specify about the delegation of power of the Collector to the Revenue Divisional Officer for the said purpose. Therefore, the District Collector is not having any power to delegate powers to the second respondent under Section 3(c) of the Land Acquisition Act, 1894, to conduct enquiry under Section 5-A of the Act, for the purpose of acquiring the land for providing house sites to the weaker sections.

Section 3(c) of the Land Acquisition Act, 1894 reads as under.

“3(c) the expression “Collector” means the Collector of a District and includes a Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the functions of a Collector under this Act.

In the impugned notification, it has been stated that the Assistant Collector was appointed to proceed with the acquisition proceedings of the land in question for the purpose of providing house sites to the weaker sections. On perusing the G.O., and Section 3(c) of

the Land Acquisition Act, 1894, this Court is of the view that the District Collector is not empowered to delegate the power to the second respondent/Assistant Collector for acquisition of the lands in question for the purpose stated in the notification and also to delegate the task of conducting enquiry under Section 5-A of the Land Acquisition Act, 1894, by invoking the provisions of Section 3(c) of the said Act.

Hence, the Notification impugned in these writ petitions is not sustainable and the same is liable to be set aside, and accordingly, the Notification in Rc.G4/5821/2007, dated 14.12.2007, is hereby set aside.

The writ petition is accordingly allowed. Consequently, miscellaneous petitions, if any shall also stand closed.

JUSTICE RAJA ELANGO

20.04.2015

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Note: Registry is directed to amend the cause title by including 'The Secretary, Revenue (Land Acquisition) Department, Government of Andhra Pradesh, Andhra Pradesh Secretariat, Hyderabad,' as respondent No.4 and issue copy of this order to respondent No.4.

(By order)

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