

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.1620 OF 2015

ORDER:

The writ petition is filed with the following prayer:

“.....to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the notification issued under Section 4 (1) of the Land Acquisition Act in Rc.No.G1/2653/2011 dated 11.11.2013 issued by 1st respondent, Order dated 16.08.2014 passed by 2nd respondent, declaration issued under Section 6 of the Land Acquisition Act on 05.11.2014 issued by the 1st respondent published in Prajasakthi Newspaper and also notices under Section 9 (3) and 10 of Land Acquisition Act, 1894 issued by the 3rd respondent in respect of lands admeasuring Ac. 2.05 cents in Survey No. 140/2 belonging to 1st petitioner and Ac. 1.35 cents in Survey No. 150/5B, Ac. 0.41 cents in Survey No. 156/1C, Ac. 0.37 cents in Survey No. 156/2C, Ac. 0.19 cents in Survey No. 156/3C, Ac. 0.12 cents in Survey No. 156/4C and Ac. 0.37 cents in Survey No. 150/5A total extent of Ac. 2.81 cents belonging to the 2nd petitioner for acquisition for the purpose of expansion of Vijayawada Airport and contemplating to pass award/pay compensation under the Land Acquisition Act, 1894 instead of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as illegal, irregular, irrational and violative of the provisions of the said statutes and offends Article 14, 21 and 300-A of Constitution of India and consequently direct the respondents not to dispossess the petitioners from their respective lands pursuant to said Land Acquisition proceedings and pass such other orders or order as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

The petitioners claim to be owners and possessors of various extents of lands in Sy.Nos.140/2, 150/5B, 156/1C, 156/2C, 156/3C, Sy.No.156/4C and Sy.No.150/5A of Ajjampudi Village, Gannavaram Mandal, Krishna District.

It is the case of the petitioners that the 1st respondent sought to acquire agricultural land an extent of Ac.112.49 cents covered by R.S.Nos.1, 2, 3, 140, 141 etc., situated at Ajjampudi Village, Gannaravam Mandal, Krishna District 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. Gazette publication was made on 11.11.2013 but the respondents did not furnish the reasons for not getting published the same through Government Printing Press. Notices under Section 5-A of the Act was issued to the petitioners on 17.12.2013 and they were served on them on 21.12.2013 and the petitioners submitted objections. Without considering the objections, the respondents issued proceedings vide Rc.No.G1/2653/2011 dated 16.08.2014 under Section 5-A(2) of the Act overruling the objections.

The petitioners made a representation to the respondents on 09.12.2014 to exempt their lands from acquisition and also brought to the notice of the respondents that the 3rd respondent is not competent to hold award enquiry. The 1st respondent issued proceedings under Section 6 of the Act and the same was published in Praja Sakthi Newspaper, which does not have enough circulation in the village or district. Subsequently, the 3rd respondent issued proceedings No.Rc.B.1225/2007 dated 15.11.2007 under Sections 9(3) and 10 of the Act informing the petitioners to submit objections on 01.12.2014 and 02.12.2014 for award enquiry.

Reference to operation of new Act i.e., the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 30 of 2013 is made by the petitioners. The issuance of notices under Section 5-A of the Act calling for objections, publication of declaration under Section 6 of the Act and issuance of notices under Sections 9(3) and 10 of the Act clearly show that the respondents are proceeding further as per the Act instead of the Act 30 of 2013. Therefore, it is contended that the impugned action of respondents is illegal and *non est* in the eye of law.

This Court disposed of W.P.No.6487 of 2015 which was filed assailing Draft Notification dated 11.11.2013 and Declaration dated 05.11.2014. The findings and reasons insofar as Draft Notification and Declaration are adopted in this writ petition and prayer against Draft Notification dated 11.11.2013 and Declaration dated 05.11.2014 is rejected.

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 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 allowed to the extent indicated above. 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

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