

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.2155 OF 2015

ORDER:

Heard Sri Sitaram Chaparla, learned counsel for the petitioners and Sri K.Vivek Reddy, learned Special Government Pleader for learned Advocate General.

The petitioner prays for Mandamus declaring the land acquisition proceedings initiated pursuant to declaration vide G2/3006/2012 dated 25.06.2012, as illegal, contrary to Section 11-A of the Land Acquisition Act, 1894 (for short "the Act") and declare the land acquisition proceeding, as illegal, irregular and unconstitutional.

The learned counsel appearing for the parties have made detailed and extensive submissions in support of their respective versions. The issue boils down to the legality in dispensing with Section 5-A enquiry through order dated 25.06.2012 under Section 17(4) of the Act and failure to take possession within the period stipulated by law. On 25.07.2012, by invoking the provisions under Section 17(4) of the Act, draft declaration dated 26.06.2012 was issued and published.

The principal objection against dispensing with enquiry under Section 5-A and the consequent failure of respondents in taking possession, as now fairly conceded by the respondents, would go to the root of the draft declaration and the consequential orders. The possession is claimed as taken on 26.04.2013 and 29.05.2013. On 31.10.2014, an offer to pay 80% of compensation was initiated by respondents to all the interested persons including the petitioners herein. The petitioners have chosen not to receive the compensation offered by the respondents. It is brought to the notice of the Court that on 12.02.2015 an award under Section 24 of Act 30 of 2013 was passed and notice under Section 12(2) of Act 1 of 1894 is sought to be served on petitioners.

I have perused the original file of subject land acquisition. Without going into all other aspects urged by the learned counsel, *prima facie*, it is evident that the dispensing with enquiry through order dated 25.06.2012 and failure to take possession within three months thereof and further not conducting enquiry under Section 5-A of the Act has vitiated the land acquisition proceedings insofar as petitioners are concerned. The order under Section 17(4) dated 25.06.2012 dispensing with Section 5-A enquiry and the issuance of draft declaration dated

25.06.2012 are set aside. Insofar as petitioners are concerned, the respondents are directed to conduct Section 5-A enquiry. For the said purpose, the petitioners are given 10 days time from today to make comprehensive objections/representations to the respondents. It is made clear that with the receipt of objections/ representations from the petitioners, the authorities will consider the objections/representations and take appropriate decision. If eventually decision requires publication of Section 6 declaration under the Act, the same is to be proceeded with and other steps as regards payment of compensation etc. shall be considered under the provisions of Act 30 of 2013.

The writ petition is, accordingly, ordered as 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

24th April, 2015

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