

HONOURABLE SRI JUSTICE RAJA ELANGO

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WRIT PETITION NO:19036 OF 2008

ORDER:

1. This writ petition is filed challenging the order passed by the respondents in Ref.G2/1716/2008, dated 1.7.2008 rejecting the objections submitted by the petitioners in pursuance of the notification issued under Section 4 (1) of the Land Acquisition Act, vide proceedings dated 29.3.2008.

2. The brief facts of the case are as follows:

The petitioners are small farmers and they are having meagre extents of land in Sy.Nos.378/4, 373/1 and 373/2 of Rajapudi Village, Jaggampet Mandal, East Godavari District, and they are totally dependant upon the income being derived from these lands. While so, the 2nd respondent had issued a notification under Section 4 (1) of the Land Acquisition Act proposing to acquire the lands of the petitioners for the purpose of allotment of house sites to weaker section. After issuance of the notification, a notice under Section 5A of the Act has also been issued by the 3rd respondent for submitting objections. The petitioners submitted their objections. But the 2nd respondent passed order dated 1.7.2008 rejecting their objections. Hence, the petitioners approached this Court.

3. On 2.9.2008, while admitting the writ petition, this Court granted interim stay of all further proceedings including dispossession of the petitioners from their lands.

4. Today, when this matter has been taken up for hearing, the learned Government Pleader for Land Acquisition submitted that the petitioners were called to raise their objections under the notification impugned and accordingly, the petitioners raised objections on various grounds by invoking the provisions under Section 5-A of the Act and their objections were found not valid. However, the learned Government Pleader submitted that due to the interim stay granted by this Court, the authorities

could not proceed further in this matter.

5. The fact remains undisputed is that there are no further proceedings in pursuance of the notification dated 29.3.2008.

6. At this juncture, it is pertinent to note that as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, 'the Act of 2013'), if the physical possession of the land has not been taken or the compensation has not been paid to the owners or if the award has been made about more than five years prior to the commencement of the Act of 2013, the land acquisition proceedings shall be deemed to have lapsed.

7. Now, coming to the case on hand, according to the respondents, the respondents could not proceed further with the land in question due to the interim stay granted by this Court. However, the facts that remain undisputed are (1) the petitioners are in possession of the lands in question and (2) since no award has also been made, the amount of compensation could not have been deposited.

8. In this regard, for the question posed by this Court as to whether the land acquisition proceedings in question, which could not be proceeded with due to the stay granted by this Court, can be termed as lapsed and Section 24(2) of the Act of 2013 can be made applicable in such circumstances, it is submitted by the learned Counsel for the petitioners that the order of interim stay does not deprive the right of the petitioners/landlords to apply for the relief under Section 24(2) of the Act of 2013 as they are always conferred with the statutory right to invoke the provisions of Section 24(2) of the Act. In support of his contention, he relied upon the judgment of the Apex Court in *Karnail Kaur Vs. State of Punjab*, wherein it is held that though any proceedings were stayed by the Court, on account of which the authorities could not proceed with the acquisition proceedings, the petitioners-landlords have a right to invoke the provisions of Section 24(2) of the Act of 2013, and it is necessary to protect the interest of the persons concerned.

9. In the light of the provisions of Section 24(2) of the Act of 2013 and the judgment of the apex Court cited above and in view of the fact that possession of the land in question has been with the petitioners and no further proceedings has been made in pursuance of the notification, the notification dated 29.3.2008 shall be deemed to have lapsed.

10. Accordingly, the Writ Petition is allowed setting aside the notification dated 29.3.2008 and its consequential proceedings. No order as to costs. However, it is made clear that the respondents are always at liberty to initiate the proceedings afresh under the Act of 2013, if they so desire.

Justice Raja Elango

Date:1.4.2015

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