

THE HON'BLE SRI JUSTICE RAJA ELANGO

Writ Petition No.327 of 2008

ORDER:

The writ petition is filed by the petitioners seeking a writ of mandamus declaring the action of the respondents in issuing Notification Rc.G4/5821/2007, dated 14.12.2007 under Section 4(1) of the Land Acquisition Act, 1894, as illegal, arbitrary and violative of principles of natural justice.

Learned counsel for the petitioners submits that the action of the first respondent in delegating the power to the Assistant Collector to conduct enquiry under Section 5-A of the Land Acquisition Act cannot be sustained in law and as such, prayed this Court to set aside the said Notification. He further submits that the Assistant Collector cannot be empowered to acquire the land and the said power cannot be delegated by the District Collector.

The learned counsel for the respondents relying on G.O.Ms.No.822, Revenue (K) Department, dated 16.07.1985, submits that the District Collector has the power to delegate the power to acquire the land to the Revenue Divisional Officer.

Heard the learned counsel on either side and perused the material available on record.

To decide the point, it is necessary to extract the G.O., which is relied on by the counsel for the respondents, 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 hereby appoints 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 Harijanwadas and provision of burial grounds including Pathways to burial grounds to Scheduled Castes and other Weaker Sections of Society.”

Learned counsel for the petitioners, on perusing the said G.O., submits that the District Collector is not having any power to delegate the power to the Assistant Collector under Section 3(c) of the Land Acquisition Act, 1894, to conduct enquiry under Section 5-A of the Act.

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.”

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 does not have any power to delegate the power to the Assistant Collector and also the Collector is not empowered to delegate the task of conducting enquiry under Section 5-A of the Land Acquisition Act, 1894, by invoking Section 3(c) of the said Act. Hence, the Notification impugned in the writ petition 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. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall also stand disposed of.

JUSTICE RAJA ELANGO

30th April, 2015

skmr