

THE HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITIONS No.5544, 6312, 6678, 8352, 8410 and 11100 of
2008

COMMON ORDER:

1. Since the issue involved in all these writ petitions is one and the same, they are heard together and being disposed of by this common order.

2. These writ petitions are filed challenging the notification No.G2/1010/2008, dated 3.3.2008 issued by the District Collector, Krishna District, Machilipatnam under Section 4(1) of the Land Acquisition Act, 1894 proposing to acquire the lands of the petitioners for the development of residential houses to employees and house plots for A.P.N.G.Os Association members, West Krishna Branch, Vijayawada.

3. It is the contention of the learned Counsel for the petitioners that the petitioners are the absolute owners and possessors of the lands in question and that they are eking out their livelihood by cultivating the same. Further, it is contended that the Collector is not competent authority to acquire the lands in question, unless and otherwise there is delegation of powers by the Government to acquire the land in question. It is also contended that the purpose for which the notification was issued by the Collector will not come under the purview of the Public purpose and that the notification also does not disclose that the proposed acquisition is for the public purpose.

4. In contra, the learned Government Pleader for Land Acquisition submitted that in view of G.O.Ms.No.1131, dated 17.7.1986, the District Collector is an authorized person to acquire the lands and there is no need of delegation of powers at each and every occasion of acquisition of lands. He further contended that the acquisition for the

purpose of housing plots also falls within the purview of public purpose and the compensation will be paid to the persons concerned.

5. Heard and perused the material available on record.

6. As rightly pointed out by the learned Counsel for the petitioners, there should be valid delegation of power to the Collector to issue the notification under Section 4(1) of the Act. The reading of the entire notification under challenge does not disclose that the proposed acquisition of land is for the public purpose.

7. The points that were raised before this Court challenging the validity of the notification, are covered by the judgments of the Apex Court in **H.M.T. House Building Cooperative Society Vs. Syed Khader and others**^[1]; and **Bangalore City Co-operative Housing Society Limited Vs. State of Karnataka and others**^[2] and also the judgment of this Court in **R. Pushpavathi and others Vs. Special Deputy Collector, L.A., GHMC, Hyderabad and others**^[3].

8. In the decision (1) cited, the Apex Court held that any scheme submitted by any co-operative society relating to housing, must receive prior approval of the appropriate Government and then, only the acquisition of land for such scheme can be held to be for the public purpose.

9. In the instant case, the notification impugned does not disclose any of housing schemes framed and also any approval by the Government. If at all, the land is proposed to be acquired for the purpose of allotment of plots to the members of A.P.N.G.Os Association, permission should be obtained from the Government on the basis of the scheme framed by the concerned authorities.

10. In the light of the judgments of the Apex Court cited supra and in

the absence of any scheme framed for allotment of the plots to the members of the A.P.N.G.Os Association and in the absence of any approval by the Government, it can be held that the notification under challenge was issued without any jurisdiction. Therefore, the impugned notification is liable to be set aside.

11. Accordingly, the Writ Petitions are allowed and the notification dated 3.3.2008 issued under Section 4 (1) of the Act and the consequential proceedings, if any, are set aside. The miscellaneous petitions filed in these writ petitions also shall stand closed. There shall be no order as to costs.

RAJA ELANGO, J

Dated:24th February, 2015

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24.02.2015

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[\[1\]](#) (1995) 2 SCC 677

[\[2\]](#) (2012) 3 SCC 727

[\[3\]](#) 2012 (4) ALD 565