

HONOURABLE SRI JUSTICE RAJA ELANGO

-

WRIT PETITION NO:14537 OF 2008

ORDER:

1. This writ petition is filed challenging the action of the respondents in proposing to acquire the lands of the petitioner situated in Sy.No.36/2 admeasuring Ac.3.50 cents in Raparthy Village, Pithapuram Mandal, East Godavari District, vide notification Ref.G2/1257/2008, dated 14.3.2008, without considering the objections submitted by the petitioner.

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

The Government had issued a notification under Section 4(1) of the Act Land Acquisition Act proposing to acquire the lands of the petitioner 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 petitioner submitted his objections. But the 2nd respondent passed order dated 18.6.2008 rejecting his objections. Hence, the petitioner approached this Court.

3. On 8.7.2008, this Court granted interim stay of all further proceedings pursuant to the impugned notification, dated 14.3.2008.

4. Today, when this matter has been taken up for hearing, the learned Government Pleader for Land Acquisition submitted that the petitioner was called to raise his objections under the notification impugned and accordingly, the petitioner raised objections on various grounds by invoking the provisions under Section 5-A of the Act and his 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 14.3.2008.

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, they 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 petitioner is 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 petitioner that the order of interim stay does not deprive the right of the petitioner/landlord 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 petitioner and no further proceedings has been made in pursuance of the notification, the notification dated 14.3.2008 shall be deemed to have lapsed.

10. Accordingly, the Writ Petition is allowed setting aside the notification dated 14.3.2008 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

NN

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION NO:14537 OF 2008

DATE:1.4.2015.

Nn

