

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.21158 of 2011

ORDER:

The petitioner prays for Mandamus declaring Section 4(1) notification dated 12.11.2008 issued by 2nd respondent proposing to acquire the lands in Chippili Village, Madanapalle Mandal, Chittoor District for summer storage and excavation of Pungunur branch canal in AVR HNSS Project, as lapsed under Section 11-A of the Land Acquisition Act, 1894 (for short 'the Act') and set aside the same. The petitioner prays for issuance of fresh notification under Section 4(1) of the Act.

The petitioner claims to be owner of agricultural land in an extent of Ac.2.22 cents in Survey No.52/2 of Ponnatipalem Village, near Chippili Village, Madanapalle Mandal.

The respondents issued notification under Section 4(1) dated 12.11.2008 and draft declaration dated 27.11.2008 under the Act published in Gazette dated 31.12.2008 for acquiring Ac.0.66 cents out of Ac.2.22 cents. The purpose of acquisition is construction of summer storage and for a channel for Punganur branch canal. As the averments go, the complaint is against the failure to include structures, mango gardens and trees in existence in the land proposed to be acquired by the respondents. A few of villagers filed objections against the acquisition primarily on the ground that there is Government land in Survey Nos.780, 778 etc of Vempalle Village and Survey Nos. 179, 182,167, 168 and 169 etc. of Chippili Village for constructing summer storage tank. The respondents failed to take note of the existence of a tank called Redla Cheruvu near Chippili village which can be converted into a summer storage tank. In addition to

non-inclusion of trees, the respondents failed to note the existence of bore well in the acquired land. The petitioner claims to have represented to exclude Ac.25-00 of land adjacent to Chippili village as all these land owners are small farmers. The petitioner requests for deletion of houses from acquisition. In spite of representation, it is stated, no action has been initiated by the respondents. A look at these averments is sufficient to appreciate that none of them is valid for assailing the notification under challenge.

Be that as it may, the legal objection against the proposed acquisition is that on 12.11.2008 Section 4(1) notification was issued. On 27.11.2008 draft declaration was issued and gazetted on 31.12.2008. The respondents have not passed the award as late as 20.07.2011. The petitioner relies upon Section 11-A of the Act and contends that the proceedings have lapsed and the respondents cannot proceed in the matter. From these averments, it is clear that the petitioner firstly complains against non-inclusion of mango trees, structures, bore well in the impugned notice as illegal and secondly that for failure to pass an award within the two years of draft declaration as required under Section 11-A, the acquisition proceedings have lapsed.

The 3rd respondent for himself and on behalf of 2nd respondent filed counter. The respondents object to maintainability of the writ petition under Article 226 of the Constitution of India. It is stated that there is no illegality or irregularity in the acquisition of the land for construction of summer storage tank in Chippili village to supply drinking water to Madanapalle municipality. The total extent required is Ac.126.31. The respondents by invoking the urgency clause under Section 17(4) of the Act dispensed with enquiry under Section 5-A of

the Act. The award enquiry was conducted on different dates with effect from 09.07.2009 and the District Collector, Chittoor held negotiations with all the land losers on 01.11.2011. The consent award was passed on 01.11.2010 by the 3rd respondent and consent was approved by Special Collector, Telugu Ganga Project, Nellore on 04.11.2010. A sum of Rs.15.80 crores for payment to land losers was released on 10.05.2011. The amount was disbursed to land losers on 10.05.2011. The petitioner has consented to acquisition and as stated above award was passed on 01.11.2010. The compensation amount payable to him is deposited in the Court of Senior Civil Judge, Madanapalle. As the consent is given, the respondents are not under obligation to dispose of representation. It is further stated that Section 11-A of the Act is not attracted and violated. The award is passed well within the time. Further enquiry under Section 5-A has been dispensed with by invoking the power under Section 17(4) of the Act. No exception to the consent awards is taken.

The stand taken by the respondents is that the names of persons interested in the proposed acquisition have been detailed in the notification issued under Section 4(1) and draft declaration under Section 6. The persons interested have consented for passing the award. Accordingly award dated 01.11.2011 was passed. It is not in dispute that by invoking the power under Section 17(4) of the Act, Section 6 declaration was issued. It is to be observed that firstly the petitioner has not come to the Court with true and correct facts much less with clean hands. Secondly to join issue with the 2nd and 3rd respondents, no reply is filed. The issue arises for decision if there is a dispute on the facts stated by the respondents. The copies of record produced in this behalf belies the stand of petitioner. The learned

counsel for the petitioner was permitted to peruse the award proceedings. Having regard to these circumstances, this Court is of the view that by suppressing the facts, the writ petition has been filed. There are no merits in writ petition. The petitioner is not entitled to any relief. The writ petition is dismissed. No order as to costs.

S.V.BHATT,J

Date:06 -03-2015

Stp