

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.12823 of 2012

ORDER:

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Heard and perused the record.

The present Writ Petition came to be filed questioning the action of the officials of the 2nd respondent i.e., Tahasildar, Guntur District in measuring land in Sy.No.147/1 admeasuring Ac.1.00 cents situated at Chowtapapayapalem village, Rajupalem Mandal, Guntur District with a view to acquire the same for rehabilitation of persons evicted in Pulichintala Project without issuing any notice, as illegal and arbitrary.

The petitioner herein claims herself to be a small farmer holding white ration card and possessing land to an extent of Ac.1.00 in Sy.No.147/1 in Chowtapapayepalem village. It is said that the Government acquired Ac.6.32 cents in Sy.Nos.69/1, 69/2 and 69/3 for rehabilitation of the persons who lost their land in Pulichintala Project. It is averred in the affidavit that recently the officials of the 2nd respondent measured the land belonging to the petitioner without issuing any notice and with a view to acquire the same, which act is subject matter of challenge in the present Writ Petition. The main ground urged by Sri

P.Radhakrishna, the learned counsel for the petitioner, is that no notice was given to the petitioner before acquiring the land thereby violating the principles of natural justice. It is further contended that there is any amount of doubt with regard to the enquiry being conducted having regard to the reference of Section 17(4) of the Land Acquisition Act, in the preamble of the Award.

Sri Ananda Rao, learned counsel who represented the implead petitioner contended that the land of the petitioner was already acquired, made into plots and then the same was handedover to the implead petitioner for house-site pattas. He submits that subsequent to filing of this Writ Petition, the petitioner also filed W.P. No.37446 of 2015 raising identical issues which was dismissed. He further submits that it is not open for the writ petitioner to question the acquisition proceedings once an Award has been passed.

The Special Deputy Collector (Land Acquisition), Pulichintala Project, Unit-I, filed his counter denying the averments made in the petition contending that land to an extent of Ac.13.81 cents situated in Sy.No.147/1 - Ac.3.56 cents, Sy.No.147/2 – Ac.6.25 cents and Sy.No.148 – Ac.4.00 cents at Chowtapapayapalem village of Rajupalem Mandal in Guntur District was proposed for provision of house sites to the Displaced Families of Chityala and Bodanam village whose lands got submerged under

Pulichintala Project. It is stated that Draft notification proposals under Section 4(1) of the L.A. Act were submitted to the Special Collector, L.A., Dr.K.L.Rao Sagar (Pulichintala)Project, Guntur, who approved the same and later got it published in the Gazette. After publication, a notice under Section 5-A of the Act was issued asking the interested persons to submit their objections, if any. It is stated that the petitioner has refused to receive the notice and did not file any objections during enquiry. It is further stated only three other persons filed their objections which were rejected. Thereafter, draft declaration, under Section 6 of the L.A. Act, was published. It is further stated that notice in Form 6 under Section 9(1) and 10 of the L.A. Act was issued and affixed in the public places as per the provisions of the Act, fixing the date of Award enquiry on 27.11.2010. A personal notice under Section 9(3) and 10 of the Act was also issued in Form 7 which was served on the petitioner personally and also by way of registered post with acknowledgment due, asking the petitioner to attend the enjoyment survey of the land on 18.01.2011. The petitioner gave a statement during Award enquiry refusing to part with the land. It is further stated that since the land owners failed to attend award enquiry and prove title, the entire amount of compensation of Rs.49,71,600/- was deposited in the Court of Principal Senior Civil Judge, Guntur on 28.05.2011. It is further averred that notice dated 10.06.2011 under Section 12(2) of the Act was sent to the

petitioner by registered post with acknowledgment due but as the petitioner refused to receive the same, it was returned with an endorsement "Refused, hence returned to sender". Thereafter, possession of the land was taken under the cover of panchanama on 30.05.2011 and the same was handedover to the Requisition Department on 01.10.2011. It is further stated that since the Executive Engineer, PIU, Guntur prepared layout in the total extent of Ac.13.81 cents and ground level stones were also planted. Hence, it is submitted that the plea of the petitioner that she is in possession of the land is not correct.

The learned counsel for the petitioner mainly contended that the Writ Petitioner continues to be in possession of the property and she is protected by virtue of the interim order dated 27.04.2014 passed by this Court.

A perusal of the material on record show that a draft notification under Section 4(1) of the Act and notice in Form 3 under Section 5A of the Act was issued on 22.12.2009 asking the interested persons to submit their objections if any against the land acquisition proceedings by fixing the date of enquiry on 08.01.2010. The petitioner refused to receive the notice in Form 3 when it was sought to be served on her and no objections were filed during enquiry under Section 5A of the Act. But the objections filed by three persons were considered and rejected on 10.06.2010. Thereafter, a notification under Section 6 of

the Act was published, followed by notice under Section 9(3) and 10 of the Act in Form 7 dated 15.11.2010 which was served on the petitioner personally. Subsequently, on 29.12.2010 a notice was also sent to the petitioner by registered post with acknowledgment due asking her to attend the enjoyment of survey of land on 18.01.2011 and the same was served on the petitioner on 07.01.2011. It is stated in the counter that the petitioner gave a statement during Award enquiry refusing to part with the land and an Award came to be passed on 09.05.2011 being Award No.3/11. The entire compensation of Rs.49,71,600/- covered by award was deposited in the Court of Principal Senior Civil Judge, Guntur on 28.05.2011. The notice under Section 12(2) of the Act dated 10.06.2011 sent to the petitioner by registered post with acknowledgment due was refused by her. Thereafter possession of the land was taken under cover of panchanama dated 30.05.2011 and later handedover the same to the Requisition Department on 01.10.2011. Therefore, the argument of the learned counsel for the petitioner that no notice was served and everything happened behind the back of the petitioner, cannot be accepted.

Coming to the next argument that no enquiry under Section 5A of the Act was conducted in view of the reference to Section 17 in the Award, I am not in agreement of the same. It is to be noted that Award itself specifically

mentions that while referring to the draft notification under Section 5A of the Act, an enquiry was conducted on 08.01.2010 at the office of the Tahasildar, Rajupalem Mandal. Counter affidavit also discloses the same.

Though there is reference to Section 17(4) in the Award but the record clearly discloses holding of an enquiry under Section 5A. There appears to be some mistake in referring to Section 17(4) in the award. After passing of the award, the petitioner filed W.P.No.37446 of 2015 before this Court raising identical issues which was dismissed by a learned Single Judge of this Court on 18.11.2015. Viewed from any angle, I see no grounds to entertain the Writ Petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions, if any, pending in this writ petition shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

Dt:01.12.2015.
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