

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

-

WRIT APPEAL No. 964 OF 2015

Date: 03.11.2015

Between:

Yanati Srinath Reddy
& others.

... Appellants

And

The State of A.P., rep., by its Principal Secretary,
Department of Energy,
Hyderabad & others.

... Respondents

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT APPEAL No. 964 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ appeal is directed against the order, dated 16.09.2015, passed in W.P.No.40808 of 2014, whereby the appellants' writ petition has been dismissed summarily.

The appellants filed writ petition under Article 226 of the Constitution of India challenging the notifications under Sections 4(1) and 6 of the Land Acquisition Act, 1894 (for short, "the Act"), dated 30.11.2013 and 03.12.2014 respectively. They also challenged an enquiry under Section 5A of the said Act. The challenge is mainly on the ground that in the notification under Section 4(1) of the Act the respondents did not mention additional purpose for which the land is proposed to be acquired and for the first time in notification under Section 6 they added the residential colony for the employees of thermal station. In short, the contention urged by learned counsel for the appellants is that in the original notification the respondents proposed to acquire land for Thermal Power Station only and subsequently, they added the additional purpose, namely, residential colony for its employees. This, according to learned counsel for the appellants, is a colourable exercise and on this ground alone the notifications deserve to be set aside. In the alternative, he also prayed for setting aside the notification under Section 6 and sought direction for fresh enquiry under Section 5A of the Act.

Similar contentions were advanced before learned Single Judge. We have perused the impugned order. It is apparent that learned Judge dealt with all contentions in proper perspective, which, in our opinion, deserves no interference. The relevant observations made by learned Single Judge read thus:

"Since the objections of the petitioners having been considered with due opportunity given to them and keeping in view the public purpose and related public purpose for which the acquisition is being made, it cannot be said that the notifications issued under Sections 4(1) and 6 of the Land Acquisition Act, 1894 are vitiated on any ground as the existence of the public purpose cannot be denied. Moreover the land in question is contiguous to the land proposed to be acquired. Hence the petitioners cannot contend that the required land can be acquired from the adjacent Government land. Both the contentions of the learned counsel for the petitioners are, therefore, not tenable and as the acquisition proposed is not only for Thermal Power Station, but also for allied public purpose which is closely related to it. I do not

find any infirmity in the land acquisition proceedings.”

Having considered the observations made by learned Single Judge, we also posed a question to learned counsel for the appellants that whether it is possible to raise a dispute that the related public purpose, namely, setting up of a residential colony for the employees, would amount to public purpose and his reply was in the affirmative. In any case, in our opinion, it cannot be disputed that the related purpose is not a public purpose. Apart from that, merely because related purpose is mentioned in the notification under Section 6, does not, in our opinion, mean, either change of user or would cause any prejudice to the petitioner. As a matter of fact, once having proposed to acquire the land for Thermal Power Station, it is implicit that even residential quarters would also be constructed and, therefore, merely because no specific reference was made to residential colony/quarters in the beginning, does not either prejudice the petitioner or would make any difference insofar as enquiry under Section 5A is concerned.

In these circumstances, we find no merit in the appeal and the same is dismissed. Miscellaneous petitions, if any, shall also stand dismissed.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

Date: 03.11.2015

ES