

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA
REDDY**

WRIT PETITION No.41025 of 2015

–
17.12.2015

Between:

Aluri Swarajya Lakshmi

.. Petitioner

and

The State of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration and Urban Development Department,
Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.C.V.R.Rudra Prasad

Counsel for respondent No.1: Government Pleader
for Municipal Administration and Urban Development (AP)

Counsel for respondent No.2: Mr.D.Ramesh, Special Government Pleader
(AP)

Counsel for respondent No.3: --

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to set aside the order, dated 18.08.2015, of respondent No.2, whereby he has rejected the petitioner's objections/suggestions for giving adequate and rational benefits by way of offering reconstituted land and compensation in lieu of her valuable land proposed to be taken under the Land Pooling Scheme for the purpose of Capital Region Development for the State of Andhra Pradesh, as illegal and arbitrary.

The petitioner claims to be the owner of land admeasuring Acs.5.57 cents in survey Nos.265/1, 265/A and 265/B of Venkatapalem Village, Thulluru Mandal, Guntur District, situated on the proposed NH-5 bypass road and falling under the Andhra Pradesh Capital Region Development Authority Land Pooling Scheme Unit-23, Venkatapalem Village. A notification under Section 43(5) of the Andhra Pradesh Capital Region Development Authority Act, 2014, was issued declaring the intention of respondent No.2 to undertake land pooling scheme in the area covered by Venkatapalem Revenue Village covering land to an extent of Acs.1611.46 cents inviting objections and suggestions on the proposed land pooling scheme. In response thereto, certain objections/suggestions were filed. The petitioner has also filed objections/suggestions in respect of her land. In her objections, the petitioner has, *inter alia*, stated that as a national high way was laid through a part of her land, the remaining land has become commercial and that therefore, it may be excluded from the land pooling scheme. Alternatively, the petitioner submitted that if a rational package is given, she will think and take a decision. By proceedings, dated 18.08.2015, impugned in this writ petition, respondent No.2 has rejected her suggestions/objections by stating that already consent was received from the landowners to the extent of Acs.1,329.08 cents against Acs.1,369.23 cents.

Mr.C.V.R.Rudra Prasad, learned counsel for the petitioner, submitted that respondent No.2 has committed a serious illegality in rejecting his client's suggestion for issue of rational package without application of mind. He has further submitted that if respondent No.2 had made proper application of mind, he would have accepted the petitioner's suggestions.

Mr.D.Ramesh, learned Special Government Pleader (AP) for the Capital Region Development Authority (CRDA) appearing for respondent No.2, submitted that out of the land admeasuring Acs.1,369.23 cents proposed to be acquired under the land pooling scheme, consents were given by the landowners to the extent of Acs.1,329.08 cents for the package announced by respondent No.2 and that a separate package cannot be declared for the petitioner's land. He has further submitted that it is up to the petitioner either to convey her consent for the land pooling scheme or not and that if she is not willing to accept the package already declared by respondent No.2, the latter will have no option other than going for acquisition of her land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act').

After careful consideration of the submissions of the learned counsel for the parties, I am of the opinion that respondent No.2 cannot be compelled either to accept the petitioner's suggestions or reconsider its decision in respect of compensation/package demanded by her.

The land pooling scheme does not involve compulsory acquisition. Contrarily, the land is pooled under the scheme based on the consent of the landowner, if he is agreeable for the package announced by the competent authority and it is for him/her either to give or not to give consent. As rightly submitted by the learned Special Government Pleader (AP), the petitioner cannot compel respondent No.2 to reconsider her suggestions as the

consequence of her request to extend the package as suggested by her different from the package made applicable to substantial extents of other lands acquired under the land pooling scheme, more so when the refusal of consent by the petitioner would only result in dropping further action for land pooling *qua* her land.

Hence, the petitioner is not entitled to seek a *mandamus* for reconsideration of the decision taken by respondent No.2. If the petitioner feels that her land is more valuable than the compensation being offered by respondent No.2 under the land pooling scheme package, by all means, she can insist on acquisition of her land under the provisions of the Act, under which she will be entitled to fair compensation.

For the aforementioned reasons, I do not find any merit in the writ petition and the same is accordingly dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.52948 of 2015 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

17th December, 2015

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