

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

PUBLIC INTEREST LITIGATION No. 140 of 2015

Dt:26.10.2015

Between:

Dr.Pentapati Pulla Rao.

... Petitioner

And

Polavaram Project Authority and others.

... Respondents

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

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PUBLIC INTEREST LITIGATION No. 140 of 2015

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

Heard learned counsel for the parties.

In this PIL, the petitioner has made several prayers. The petitioner, however, in the course of hearing confined challenge to the grant of rehabilitation package for all displaced persons and sought implementation of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short '2013 Act') in respect of the lands already acquired for construction of Polavaram Project.

Learned counsel for the petitioner, at the outset, invited our attention to Section 24 of 2013 Act and submitted that physical possession of the lands from owners has not been taken so far and even compensation has not been paid and that being so, the land acquisition proceedings initiated under the Land Acquisition Act, 1894 stand lapsed and that the respondents will have to initiate fresh land acquisition proceedings in accordance with 2013 Act. In support, he placed reliance upon the judgment of the Hon'ble Supreme Court in Sree Balaji Nagar Residential Association Vs. State of Tamil Nadu and others (Civil Appeal No.8700 of 2013 decided on 10.09.2014). He did not make any other submission.

We have perused the judgment of the Supreme Court. In this judgment, the Supreme Court after considering the Scheme of 2013 Act, in particular, Section 24 thereof, in paragraph 13 observed thus:

“From the discussions made above, it is amply clear that though there is lack of clarity on the issue whether compensation has been paid for majority of land holdings under acquisition or not, there is no dispute that physical possession of the lands belonging to the appellants under consideration in these appeals has not been taken by the State or any other authority on its behalf and more than five years have elapsed since the making of the award dated 30.11.2006 and 01.01.2014 when the 2013 Act came into force. Therefore, the conditions mentioned in Section 24 (2) of the 2013 Act are satisfied for allowing the plea of the appellants that the land acquisition proceedings must be deemed to have lapsed in terms of Section 24 (2) of the 2013 Act. The apples are disposed of accordingly. It goes without saying that the Government of Tamil Nadu shall be free, if it so chooses to initiate proceedings of such land acquisition afresh in accordance with the provisions of 2013 Act. In the facts and circumstances of the case,

there shall be no order as to costs.”

From bare perusal of paragraph 13 of Sree Balaji Nagar Residential Association's case and from the facts of case, as reflected in paragraph 2 of the judgment, it appears to us that physical possession of the land in that case was not taken. Moreover, it is not clear whether the compensation had been paid or not. It further appears that there was an order of the High Court granting stay of dispossession of the concerned landholders from the land in acquisition. Thus, from the facts of that case, it is clear that the land owners were not physically dispossessed and the possession was protected by an order of High Court.

The judgment of the Hon'ble Supreme Court relied upon by learned counsel for the petitioner is of no avail to the petitioner, in view of the dispute raised by the respondents in respect of physical possession of the acquired lands and payment of compensation. The first contention, therefore, deserves to be rejected outright. In the instant PIL, the petitioner claims to be a resident of the area where the lands in question are situated. He has not given any particulars in the affidavit, so as to consider and appreciate the case tried to be made out in the PIL. That apart, respondent Nos.3, 9 and 10 have filed counter-affidavit and in paragraph 4 thereof, have clearly stated that the possession of land, acquired under the Land Acquisition Act, 1894, has already been taken and the transactions are complete in all respects much before 2013 Act became operative. They have placed on record the statement, submitted by the Special Collector (Land Acquisition), Polavaram Irrigation Project, Rajahmundry, East Godavari District, showing the extent of the land acquired and the compensation paid. The land owners have no grievance against the completed transactions of acquisition.

Learned counsel for the petitioner, across the Bar, repeatedly submitted that all the statements made on counter-affidavit and the statement submitted by the Special Collector (Land Acquisition) are false. Apart from such dispute being raised, he could not bring any material on record to substantiate his

submissions in respect of possession and payment of compensation. He also tried to invite our attention to some other documents placed on record, such as report of the Comptroller and Auditor General of India to contend that the lands of several villagers are not likely to submerge. Development of the project is in progress and at this stage, it is not possible to appreciate such contention with reference to the report of Comptroller and Auditor General.

Thus, we do not find any merit in the PIL and is dismissed accordingly.

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

Dt:26.10.2015

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