

HON'BLE SRI JUSTICE S.V.BHATT

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Writ petition No.20895 of 2011

ORDER:

The petitioners pray 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 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 petitioners pray for issuance of fresh notification under Section 4(1) of the Act.

The petitioners claim to be owners of following agricultural lands at Chippili Village, Madanapalle Mandal.

1 st petitioner	Survey No.62/5	Extent Ac.0.11 cents
	Survey No.62/6	Extent Ac.0-13 cents
	Survey No.62/7	Extent Ac.0.13 cents
2 nd petitioner	Survey No.59/2	Extent Ac.0.16 ½
	Survey No.60/1	Extent 0.01 ½ cents
	Survey No.60/2	Extent Ac.0.17 ½ cents
	Survey No.68/1	Extent 0.05 cents
3 rd petitioner	Survey No.62/4-A	ExtentAc.O.16½ cents
	Survey No.62/4	Extent Ac.0.08 ½ cents
	Survey No.62/3	Extent Ac.0.13 cents
4 th petitioner	Survey No.67	Extent Ac.0.05 Cents
	Survey No.62/3	Extent Ac.0.13 Cents

5 th petitioner	Survey No.67	Extent Ac.0.07 cents
	Survey No.66	Extent Ac.0.13 ½ cents
	Survey No.63/2	Extent Ac.0.10 cents
6 th petitioner	Survey No.60/2	Extent Ac.0.15 ¾ cents
	Survey No.59/2	Extent Ac.0.05 cents
	Survey No.61/2	Extent Ac.0.25 cents

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. 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 petitioners claim to have represented to exclude Ac.25-00 of land adjacent to Chippili village as all these land owners are small farmers. The petitioners request 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 petitioners rely 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 petitioners firstly complain against non-inclusion of mango trees, structures, bore well in the impugned notices 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. All the land losers except Kanala Pedda Reddappa s/o.Siddappa and Kanala Ramanamurthy, s/o. Pedda Reddappa who own an extent of Ac.-80 cents . 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 1st and 2nd petitioners have consented to acquisition and as stated above and award was passed on 01.11.2010. The compensation amount payable to them is deposited in the Court of Senior Civil Judge, Madanapalle. It is categorically stated that the 1st petitioner gave representation on 09.06.2010 agreeing for acquisition and rest of the petitioners have appeared before the District Level Negotiations Committee. The rate fixed is Rs.14,72,000/- per acre for wet lands and Rs.13,15,000/- per acre for dry lands. The amount is fixed by taking note of all the relevant circumstances in the amount now included by way of compensation is the comprehensive amount. 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 petitioners have 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 belie the stand of petitioners. The learned

counsel for the petitioners 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 petitioners are not entitled to any relief. The writ petition is dismissed. No order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

S.V.BHATT,J
Date:06.03.2015
Stp