

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.24049 of 2008

ORDER:

This writ petition was filed for the following relief:

“to issue an order or writ in the nature of Writ of Mandamus declaring the action of respondents in issuing 4(1) notification dated 24.01.2008 and the subsequent declaration dated 16.05.2008 published on 20.05.2008 both bearing Ref.G1/363/2008 issued under Section 4(1) and Section 6 respectively of the Land Acquisition Act, 1894 for acquiring the land of petitioner an extent of 1086 square feet (as per notification 999 square feet) in Survey No.72/1A of Nagarajupalli village, Kadapa District as arbitrary, illegal, unconstitutional and in violation of Article 300-A of the Constitution of India and consequently call for records and set aside the same.”

This Court, by order dated 04.11.2008, granted interim stay of dispossession of the property of petitioner. Seeking vacation of the said order, the Government filed W.V.M.P.No.3013/2009. In the affidavit filed in support of the vacate petition, it was stated that the draft notification under Section 4(1) of the Land Acquisition Act was published on 24.01.2008 and an enquiry was conducted. The writ petitioner along with 21 others filed their objections requesting for reduction of the proposed road width from 100 feet to 60 feet. The objections of petitioner and others were considered and the road width was reduced from 100 feet to 80 feet, except at the junction points at I.T.I. Circle and Zilla Parishad of Kadapa Town and the decision was communicated on 05.05.2008. The

total area was reduced from 50,096 square feet to 36,560 square feet. The draft declaration was published in the A.P. Gazette on 17.05.2008. When notices were sought to be served under Section 9(3) and 10 of the Land Acquisition Act, the writ petitioner refused to take the notice. Hence, notice was served on him by affixing the same on the door of his house. The writ petitioner did not attend the award enquiry on 05.06.2008. However, the award was passed and compensation was paid to the interested persons, except in respect of the persons covered by the writ petitions pending in this Court. The entire work was also completed. The property of present writ petitioner is existing at the Junction Point of Z.P. Office and the building is covered with 30 feet with two storied building, where the writ petitioner is running the Hospital, out of which only 13 feet is involved in acquisition leaving the rest of building for running the Hospital. It is further stated that the award was passed for 30,078 square feet, out of 36,560 square feet, and compensation was paid to the interested persons. In the meanwhile, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act 30 of 2013') came into force with effect from 01.01.2014.

In view of Section 24(1)(a) of the Act 30 of 2013, in view of non-passing of the award, the provisions of the Act 30 of 2013 relating to the determination of compensation, rehabilitation and resettlement shall apply to the instant case.

Subject to the above observations, this Writ Petition is dismissed. No order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

26.10.2016
MVA

