

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.11604 OF 2008

ORDER:

Petitioner challenges Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') and decision of 1st respondent dated 19-05-2008 dispensing with enquiry under Section 5-A of the Act and draft declaration published in Gazette No.291 dated 21-05-2008, as illegal, arbitrary and unconstitutional.

Petitioner though challenges Section 4(1) Notification, Sri T.Rajasekhar Rao confirms his submissions to the legality of dispensing with enquiry under Section 5-A of the Act vide order dated 19-05-2008 and relies upon the decision of this Court in W.P.No.17624 of 2006, dated 25-08-2006.

I have perused the order dated 19-05-2008 and Gazette No.291, dated 21-05-2008. The interim order was granted on 29-05-2008 and the same is subsisting as on date. The right of land owner under Section 5-A is well recognized. The justification offered for dispensing with enquiry is untenable. Further, the order of this Court in W.P.No.17624 of 2006, dated 25-08-2006 is applicable to the facts of the instant case on all fours. Hence, the challenge to dispensing with 5-A enquiry is upheld. The proceedings Rc.No.814/2008/G3, dated 19-05-2008 of 1st respondent read with Gazette No.291, dated 21-05-2008 are set aside.

Respondents are directed to issue notice of enquiry under Section 5-A of the Act to petitioner. The petitioner is given liberty to file objections for the acquisition proceedings. On petitioner

submitting his objections within the time stipulated in the notice, the objections shall be considered and appropriate decision taken, duly communicated to the petitioner simultaneously. The petitioner is given liberty to take all objections including necessity to acquire subject land for rehabilitation purposes.

The writ petition is ordered as indicated above. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 02.09.2016
Prv

S.V. BHATT, J



