

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition Nos. 26828 of 2008 and 4645 of 2009

Common Order:

These two Writ Petitions are being disposed of by this common order as they were filed by the same petitioners challenging the acquisition of their lands.

W.P.No.26828 of 2008 relates to the acquisition of an extent of Ac.0.76 cents of land in Survey Nos.6-1B and 6-2A of Gumada Village, Komarada Mandal, Vizianagaram district. W.P.No.4645 of 2009 relates to the acquisition of an extent of Ac.6-90 cents of land in various survey numbers of Komarada Village and Mandal, Vizianagaram district. The said lands were sought to be acquired for ostensible purpose of right margin of Nagavali flood bank from Kms 12.000 to KMs 12.100 and from KMs 14.100 to KMs 14.300 and right margin of Nagavali flood bank from KMs 8.700 to KMs 10.2008 and from KMs 11.100 to KMs 12.000 respectively. The petitioners state that they purchased the lands jointly and raised Palm Oil plantations. Section 4(1) Notification was published followed by a declaration under Section 6 of the Land Acquisition Act (for short 'the Act'). They challenged the acquisition and this Court, by orders dated 04.02.2009 and 06.08.2009, granted *status quo* with regard to possession of the petitioners.

A counter affidavit is filed stating that the draft notification and draft declaration were published in the District Gazette as required under the Land Acquisition Act and in view of urgency the enquiry under Section 5 of the Act was dispensed with. Appropriate notices were issued under Sections 9(1) and 10 of the Act inviting the interested persons to attend

the award enquiry on 07.07.2008. Notices under Sections 9(3) and 10 of the Act were also issued on 19.06.2008 to all the land owners including the petitioners. The notices were served on all the persons except the petitioners who are residing in Hyderabad. Subsequently, the notices were sent by registered post with acknowledgment due to the petitioners, but the petitioners did not attend the award enquiry. The other land owners attended before the District Level Negotiations Committee and accepted the package of Rs.78,000/- per acre for the dry lands situated in Komarada village and Rs.1,29,000/- per acre for the wet lands situated in Gumada village, but the petitioners did not attend the District Level Negotiations Committee. The petitioners sought ten days time and accordingly the same was granted. In spite of the same, the petitioners did not attend. In respect of land owners, who attended before the committee, a consent award was passed on 09.12.2008 and compensation was paid to them. In respect of land of the petitioners an award was passed on 10.12.2008 fixing the market value at Rs.40,000/- per acre for dry lands and Rs.55,000/- per acre for wet lands.

Learned counsel for the petitioners submits that Section 4(1) Notification and Section 6 declaration were not published as required under the provisions of the Act and he also submits that the land acquired makes the other land belonging to the petitioners useless as the land abutting the river was not acquired and the acquired land is situated at a distance of 300 to 500 meters.

This Court called for the record and noticed that the draft notification and draft declaration in respect of the lands acquired in Komarada and Gumada villages were published as follows.

“1. Komarada village:

Sl.No.	Mode of Publication	Date of publication of Draft Notification	Date of publication of Draft Declaration
1.	Vizianagaram District Gazette	09.06.2008	09.06.2008
2.	Deccan Chronicle daily Newspaper	15.06.2008	-
3.	Surya Prabha daily Newspaper	18.06.2008	-
4.	Pledge daily Newspaper	-	17.06.2008
5.	Surya daily Newspaper	-	18.06.2008
6.	Substance in the locality	22.06.2008	22.06.2008

1. Gumada Village:

Sl.No.	Mode of Publication	Date of publication of Draft Notification	Date of publication of Draft Declaration
1.	Vizianagaram District Gazette	14.07.2008	14.07.2008
2.	Surya daily Newspaper	25.07.2008	-
3.	Deccan Chronicle daily Newspaper	26.07.2008	-
4.	Sakshi daily Newspaper	-	28.07.2008
5.	The Hindu daily Newspaper	-	30.07.2008
6.	Substance in the locality	28.07.2008	31.07.2008

In view of the above, the contention of the petitioners that the provisions of the Land Acquisition Act, 1894 were not followed is not applicable. It is stated in the counter affidavit that though the award was passed on 10.12.2008 in respect of the petitioners, in view of the orders of *status quo* granted by this Court, the amount was not paid. It is also stated that in order to avoid inundation of lands during heavy floods the flood banks are formed at a distance of 100 meters to 150 meters away from the river margin and hence the flood banks cannot be formed nearer to the river edge. In the meanwhile, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act No.30 of 2013) came into force with effect from 01.01.2014 and

as per Section 24(2) of the Act, though an award was passed, if compensation was not paid the acquisition proceedings would lapse and it is open to the respondents to take fresh proceedings in accordance with law.

In view of the same, these two Writ Petitions are allowed in terms of Sub-section (2) of Section 24 of the Act 30 of 2013 to the extent of the petitioners. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in these Writ Petitions shall stand closed.

Date: 23.11.2016
Nsr

A. RAMALINGESWARA RAO, J

