

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION NO. 8869 OF 2016

ORDER:

Heard learned counsel for petitioner, learned Government Pleader for respondents 1 to 4 and Sri L. Prabhakar Reddy for 5th respondent.

2. Petitioner challenges the notice No. B/1345/2015 dated 5.2.2016 issued by the 4th respondent. Under the said notice the 4th respondent purported to have exercised power under Section 3 (b) S.S.O 15 (p) of 'Assignment Laws' and sought an explanation from the petitioner as to why the land assigned to him could not be cancelled for breach of condition.

3. Learned counsel appearing for petitioner contends that the said provision of law is not applicable in the State of Telangana and it could apply only in the State of Andhra Pradesh.

4. Learned Government Pleader for Land Acquisition does not dispute this and states that under G.O.Ms.No. 1562 dated 13.9.1963 the power was exercised by the Tahsildar. She also relied on the judgment reported in ***N.Mani V. Sangeetha Theatre***^[1] and contended that mere quoting of wrong provision of law is not a ground to interfere in the Writ Petition.

5. In the present case, the notice issued to the petitioner quotes a provision of law not applicable in the State of Telangana. The G.O referred to by the Government Pleader for Land Acquisition is not in public knowledge unlike a statute enacted by the legislature. It would be difficult for the petitioner to submit an explanation to the said show cause notice without knowing under what law the 4th respondent is exercising his power calling for an explanation from the petitioner. It is settled law that if a show cause notice is vague it cannot be sustained.

6. In this view of the matter, the notice B/1345/2015 dated 5.2.2016 issued by the 4th respondent is set aside and any consequential action taken by the 4th respondent pursuant to the said notice, which is said to have been done on 29.2.2016 is also set aside.

7. This Writ Petition is allowed. However, liberty is given to the respondents to issue a proper show cause notice to the petitioner inviting an explanation from the petitioner and then pass a reasoned order in accordance with law. There shall be no order as to costs.

8. As a sequel thereto, miscellaneous petitions, pending if any, shall stand dismissed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 22.03.2016
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^[1] (2004) 12 SCC 278