

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.24657 of 2008

ORDER:

The first petitioner is the owner of land in Survey Nos.134/1 and 134/2 and the second petitioner is the owner of land in Survey Nos.134/2 and 134/3 of Bommididi Village, Vungatur Mandal in West Godavari District. The second respondent issued a notification under Section 4(1) of the Land Acquisition Act on 19.05.2008 proposing to acquire a portion of the land owned by the petitioners. The third respondent issued a notice dated 24.05.2008 and served on the petitioners on 07.06.2008 through the Village servant of the fourth respondent inviting objections from the petitioners. The petitioners were asked to appear on 09.06.2008 before the third respondent for enquiry. They appeared before the third respondent and filed their objections. When they were asked to vacate the land, they filed W.P.No.12274 of 2008 challenging the action of the respondents and the Writ Petition was disposed of by order dated 16.06.2008 permitting the petitioners to submit their objections in response to the notice dated 24.05.2008 issued under Section 5A of the Land Acquisition Act. Pursuant to the said order, the petitioners submitted their objections on 27.06.2008 to the third respondent marking copies to respondent Nos.2 and 4. No enquiry was conducted and no opportunity was given to the petitioners. But, when the Village servant came to the spot and served a copy of the order dated

27.10.2008 on 07.11.2008 issued by the second respondent, the present Writ Petition was filed as the order dated 27.10.2008 states that the petitioners have not filed any objections nor attended the enquiry.

This Court, by order dated 11.11.2008, granted interim stay and by virtue of the same, no further proceedings have taken place. Now W.V.M.P.No.1072 of 2015 is filed by the respondents seeking vacation of the said interim order.

In the counter affidavit filed in support of the vacate petition it is stated that pursuant to the order passed by this Court in W.P.No.12274 of 2008, the petitioners filed a petition on 28.06.2008 before the Revenue Divisional Officer, Eluru, stating that the land under acquisition was given by their parents at the time of their marriage and if their lands were taken by the Government, their livelihood would be affected as they are not doing any job or business. It was further stated that their lands are not fit for house sites. The matter was enquired into and it came to light that the petitioners and their family members are having two jewellery shops in Tadepalligudem Town and Ganapavaram Village. They are also having other lands. The petitioners fall under above poverty line. They belong to business sector. There are 104 beneficiaries identified for providing house sites in the Village and accordingly a report was submitted to the District Collector.

Initially notices were issued to attend the enquiry on 09.06.2008 and the petitioners have not attended the said enquiry nor filed any objections. But, they filed objections on 27.06.2008 after disposal of W.P.No.12274 of 2008 on 16.06.2008. There is no whisper with regard to the circumstances under which the order was passed on 27.10.2008 stating that the land owners neither attended the 5A enquiry nor filed any objections. Probably, the said order was passed based on the earlier report submitted by the Revenue Divisional Officer, Eluru, on 14.05.2008 without having regard to the subsequent events.

In the circumstances, the second respondent is directed to consider the objections filed by the petitioners on 27.06.2008 and pass appropriate orders in accordance with law.

The Writ Petition is, accordingly, allowed by setting aside the proceedings of the second respondent dated 27.10.2008. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

17.10.2016
vs