

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.24278 OF 2011

ORDER:

Heard learned counsel for petitioners, learned Government Pleader for Land Acquisition and Mr.K.Ananda Rao for respondents 5 to 12.

The petitioners challenge notification issued under Section 4(1) of the Land Acquisition Act dated 18.08.2011 by the 2nd respondent, as illegal, irregular and contrary to the Land Acquisition Act, 1894 (for short 'the Act').

The complaint of petitioners is that Section 4(1) notification refers to appointment of an officer to discharge the functions under Section 5A of the Act, but the respondents claim to have dispensed with the enquiry under Section 5A of the Act by invoking Section 17(4) of the Act and such inconsistent circumstances under acquisition proceedings are illegal.

On 30.08.2011, the following order was passed by this Court:

"In the 2nd paragraph of the impugned notification, it is stated that an officer has been appointed to discharge functions under Sec.5A, whereas in the 3rd paragraph, it is stated that enquiry under Sec.5A is dispensed with, while invoking urgency clause.

The inconsistent statements in the notification impugned cannot be reconciled.

The learned Govt. Pleader shall, therefore, file counter affidavit.

Post WPMP.No.29778 of 2011 after two weeks.

Interim stay, already granted on 27.08.2011, shall continue for two more weeks."

Counsel for petitioners relies upon reply of respondent No.3 in para 12 of the counter affidavit, which reads thus:

“In reply to the averments made in para 9 of the petitioners affidavit, it is submitted that the 4(1) Notification was published in Eenadu Telugu News Paper on 22.08.2011. After seeing the notification it is noticed that in para 3 of the Draft Notification it was also notified that enquiry under Section 5A is dispensed with invoking urgency clause under Section 17(4) of the Act which is contradictory to the para 2 of the Notification where 5A enquiry was entrusted to the Special Deputy Collector (L.A), KORGRP to discharge the duties U/s 5A of the Act on behalf of the Special Collector. It is submitted that an erratum was submitted to the Special Collector for deleting the para 3 from the Draft Notification in this office reference KORGRP/59/2011 dated 23.08.2011 to publish the same as per the Act. The Special Collector has approved and issued orders to the local press to publish the same in the District Gazette in the reference Rc.D1/208/2011 dated 27.08.2011. But the publication of the erratum was stopped on receipt of the information over phone from the office of Government Pleader (L.A.), that stay of all further proceedings issued by the Hon’ble High Court”.

Counsel contends that dispensing with Section 5A enquiry appears to be contradictory and appropriate directions for conducting Section 5-A enquiry may be issued by this Court. The petitioners have no objection to participate in Section 5-A enquiry and place their objections before respondent No.3.

Learned Government Pleader for Land Acquisition explains the mistake in the matter and on instructions submits that since a decision was already taken to issue errata, respondents will issue notices under Section 5A of the Act to petitioners, conduct enquiry,

consider objections and pass appropriate orders under Section 6 of the Act. The statement is accepted.

The writ petition ordered as follows:

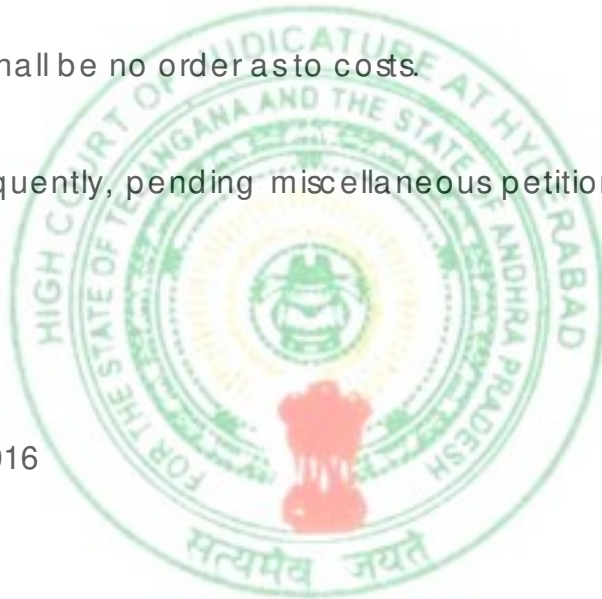
- (a) interim direction dated 27.08.2011 shall remain in force for four months from today; and
- (b) respondent No.3 is directed to issue notice under Section 5A of the Act to petitioners, receive objections and pass appropriate orders in accordance with law within two months thereafter.

There shall be no order as to costs.

Consequently, pending miscellaneous petitions, if any, stand closed.

Date: 26.09.2016

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S.V.BHATT, J