

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.26508 of 2006

ORDER:

The petitioner claims that she is the pattadar and enjoyer of the land of an extent of Acs.4.00 in Survey Nos.440/1, 440/2 and 440/3 situated at Vinnakota Village, Gudlavalleru Mandal in Krishna District. While so, a notification under Section 4(1) of the Land Acquisition Act was issued on 03.06.2006 seeking to acquire the land for the purpose of providing house sites for the weaker sections of the Village. The enquiry under Section 5A of the Land Acquisition Act was dispensed with. The petitioner filed W.P.No.19402 of 2006 challenging the said notification and the same was disposed of at the stage of admission on 20.09.2006 directing the respondents to conduct an enquiry under Section 5A of the Land Acquisition Act and pass appropriate orders after considering the objections filed by the petitioner. After disposal of the said Writ Petition, the second respondent issued a notice to the petitioner calling her to file her objections in the enquiry to be conducted on 17.10.2006. Notice was received on 09.10.2006 and the petitioner submitted 14 objections on 17.10.2006 before the second respondent. When an order was passed on 30.10.2006 the present Writ Petition was filed challenging the order on the ground that the order was passed without considering the objections and without applying the mind to the facts of the case.

This Court granted interim stay on 22.12.2006 and the same was confirmed on 12.10.2012. Now a counter affidavit is filed stating that providing houses is one of the programmes identified under Indiramma Programme and Vinnakota Village of Gudlavalleru Mandal was declared as a model and adarsa Village under the programme. On verification it was found that 127 poor families are not having houses and house sites for construction of residential houses and are in dire need of house sites. Beneficiaries were selected in Grama Sabha conducted in the Village. The land of an extent of Acs.4.00 owned by the petitioner was found to be suitable for acquisition since there were no structures in the said land and there is no Government land or poramboke land available in the Village. After disposal of the Writ Petition filed by the petitioner, a notice was issued to the petitioner on 03.10.2006 requesting her to file objections, if any, in the proposed enquiry to be held on 17.10.2006. The petitioner attended the enquiry on 17.10.2006 and submitted her objections. After considering the objections, a draft declaration was published in the Krishna District Gazette on 24.11.2006 and in the local newspapers in December 2006. Appropriate notices were issued to the petitioner for conducting award enquiry and asking the petitioner to attend the award enquiry on 29.12.2006. In view of the interim orders, further proceedings could not be taken up. The petitioner is having large extent of land of Acs.12.99 cents in R.S.Nos.344 etc., of the same Village. The petitioner's sons are having Acs.6.00 of

land in R.S.No.62/1. Thus, the petitioner hails from a rich family. It is further stated that the petitioner submitted objections on 17.10.2006 and the Tahsildar submitted a report thereon on 19.10.2006. In respect of the land of an extent of Ac.1.59 cents, pattas were already given to the beneficiaries under Indiramma Programme and construction of houses are in progress.

The only point that arises for consideration in the present Writ Petition is whether the Land Acquisition Officer, the second respondent, properly considered the objections raised by the petitioner on 17.10.2006 specifically stating the availability of other land in the following terms in objection Nos.5 to 10 as follows:

- “5. that an extent of Ac.2.60 cents in RS No.420 which is Gramakantam poramboke, vacant since long time and house sites to the poor can be provided in it.
6. that one Sri Perni Venkateswara Rao come forward voluntarily to offer his land an extent of more than one acre in R.S.No.430/1A which is abutting to Government poramboke land Ac.2.60 in R.S.No.420 for the proposed acquisition.
7. that an extent of Ac.4.80 in RS No.447/1B, 2, 4A and 6 which is a surplus land available in the village and house sites to the poor can be granted in the said land.
8. that an extent of Ac.1.60 poramboke land in R.S.No.177/12 and 14 is also available in the village.
9. that an extent of Ac.1.49 in R.S.No.171 and 173/3 was acquired by the Government and house site pattas were also granted to the beneficiaries. But no beneficiary occupied the plots so far.
10. that an extent of Ac.5.49 in R.S.No.432, 433 etc. Gram Kantam poramboke land was available and

house sites to the poor can be granted in the said land.”

However, without any reference to the said objections, the order was passed as follows:

“All the above objections raised by Smt.Vinnakota Lakshmi Sundari W/o. V.V.Ramakrishna Rao have been got enquired by the Mandal Revenue Officer, Gudlavalleru. Enquiries revealed that there are no suitable Government Poramboke lands available in the village for providing house sites to the poor as alleged by the petitioner, with regard to an extent of Ac.4.80 in R.S.No.447/1, 2, 4A and 6 taken over possession by the Government under land ceiling Act. It is submitted that the said land was handed over to Z.P.High School, for the purpose of play ground and the same is under the possession and enjoyment of Z.P.High School, Vadlamannadu. With regard to other objections raised by the petitioner it is submitted that there are no merits on the objections raised by her. The family of Smt.Vinnakota Lakshmi Sundari hails from a rich family and their livelihood will not be affected, if the proposed lands are acquired. Only after thorough verification in the village, the land pertaining to the petitioner found best suitable for providing house sites and accordingly land acquisition proceedings were initiated for the acquisition of land in this case. I finally submit that the objections raised by the individual devoid of merits and needs no consideration.”

This Court is not satisfied with the manner of disposal of objections filed by the petitioner and in view of the same, the impugned order dated 30.10.2006 passed by the second respondent is set aside and the second respondent is directed to conduct a fresh enquiry in respect of the objections already filed by the petitioner and pass appropriate orders thereon in accordance with law. In view of the setting aside of the order dated 30.10.2006, the declaration published on 24.11.2006 and its publication in the local newspaper are set aside.

The Writ Petition is, accordingly, allowed. 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)

16.11.2016
vs

