

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WP.Nos.17941, 17952, 18675, 19018 and 20769 of 2007,
11208, 17367, 17368, 17373, 18700, 18706 and 19881,
20457, 21640, 21641, 21642, 21678, 21762, 23992 of 2008,
and 33348 of 2010

COMMON ORDER.

This batch of cases is being disposed of by this common order as they are filed challenging the award, dated 25.8.1999, in so far as the lands of the petitioners are concerned.

The facts relating to the present batch of cases are that pursuant to a requisition made by the General Manager (P & L), Andhra Pradesh Industrial Infrastructure Corporation Limited (APIIC), Hyderabad a proposal was made to acquire the land to an extent of Acs.422.06 cents covered by various Survey numbers in Thammavaram Village, Kakinada Rural Mandal, East Godavari District, in a compact block by invoking the urgency provisions under Section-17(4) of the Land Acquisition Act, 1894 (for short 'the Act'). After inspection, an extent of Acs.43.39 cents was deleted from the said proposal and the remaining extent of Acs.378.67 cents was proposed for acquisition and it was divided into five blocks consisting of the following numbers:

Block Nos.	Extent Acs. cs	Consisting Sy.Nos.
Block No.1	90.56	41 to 44, 49 to 53, 56 to 59, 98, 99 and 110 to 115
Block No.2	89.54	100 to 109, 116 to 123, 135 to 137, 144 and 146 to 153
Block No.3	77.93	78, 79, 81 to 85, 87 to 89, 91, 93 to 97, 155 to 157, 159 to 161, 163, 188, 190 and 191
Block No.4	94.03	126 to 131
Block No.5	26.61	269, 270, 284, 286 and 287
Total.	<u>378.67</u>	

Draft notification under Section-4(1) of the Act was approved on 13.5.1996 in respect of all the blocks and it was published in the local newspapers on various dates. Declaration under Section-6 of the Act was approved on 14.5.1996 in respect of all the blocks and it was published in the local newspapers on various dates. Notices under Sections-9(1) and 10 of the Act were issued to the land owners on 03.8.1996 and notices under Sections-9(3) and 10 of the Act were also issued for conducting award enquiry on 23.8.1996 and 24.8.1996. The land owners filed Writ Petition Nos.15420, 16738 and 16740 of 1996 and this Court disposed of the said Writ Petitions on 20.10.1997 giving liberty to the petitioners to submit suitable representations to the respondent within three weeks from the date of the said order and thereafter, the

respondent was directed to take further proceedings in accordance with the provisions of the Act. Pursuant to the said order, the petitioners therein filed their objections on 07.11.1997 and 10.11.1997, which were found to be not tenable by the Requisition Department, i.e., APIIC, vide its letter, dated 07.01.1999. Ultimately, an award was passed for an extent of Acs.295.04 cents deleting Acs.83.63 cents. The details of the award are as follows:

Block Nos.	Extent Proposed Ac. cs.	Extent Deleted Ac. cs.	Net extent to which award passed Ac. Cs.	Award No.	Date	Date of Possession handed over to APIIC
Block No.1	90.56	20.38	70.18	1/99	25.8.1999	15.9.1999
Block No.2	89.54	--	89.54	9/07	30.6.207	21.8.2007
Block No.3	77.93	--	77.93	2/99	25.8.1999	15.9.1999
Block No.4	94.03	36.64	57.39	3/99	25.8.1999	15.09.1999
Block No.5	26.61	26.61	--	Deleted	--	--
Total	378.67	83.63	295.04			

The acquired extent was taken possession and handed over to the APIIC. Notices of the award were served on the land owners under Section 12(2) of the Act. The land owners covered by Award Nos.1 to 3 of 1999 filed applications for enhancement of compensation. However, the same were not considered by the Government. Therefore, challenging Award Nos.1 to 3 of 1999,

the land owners filed Writ Petition No.18918 and 22261 of 1999 and the said Writ Petitions were dismissed by this Court by order, dated 11.12.2003. Thereafter, the land owners sought reference under Section-18(2) of the Act and the matters were referred to the learned III Additional Senior Civil Judge, Kakinada, who enhanced the amount of compensation. Thereafter, 58 Writ Petitions were filed by different land owners, out of which, 38 cases were disposed of by this Court and the present batch of 20 cases cover an extent of Acs.74.42 cents.

Learned counsel for the petitioners submit that though the petitioners filed their objections in the enquiry conducted under Section 5-A of the Act, they were not properly considered and that, in view of the order, dated 14.02.2007, passed by this Court in Writ Petition No.16739 of 1996, the declaration made under Section-6 of the Act does not exist and therefore, this Court can enquire into the validity of the order passed under Section 5-A of the Act. This contention was raised earlier also before another learned single Judge in Writ Petition No.17958 of 2007 and batch and the same was negatived by following the order, dated 04.8.2011, of the Division Bench on a reference made therein. While negating the said contention, the learned

single Judge relied on the following observations of the Division Bench:

“It is contended when in a Writ Petition it was directed to conduct an enquiry under Section 5-A of the Act without setting aside the declaration issued under Section-6 of the Act, the issue as to whether the declaration under Section-6 of the Act automatically stands set aside or survives would depend upon the order passed under Section 5-A enquiry proceedings. We are of the opinion that the question as to whether the declaration under Section-6 of the Act automatically stands set aside or survives is a mixed question of fact and law, depending upon the facts and circumstances of each case and subject to the outcome of the hearing of the objections under Section 5-A of the Act. Therefore, we are of the view that it is for the learned single Judge to ascertain as to whether any objections are filed for conducting enquiry under Section 5-A of the Act pursuant to the orders of this Court. If no objections are filed, the question of conducting enquiry under Section 5-A of the Act would not arise and the declaration issued under Section 6 of the Act holds good. If any objections filed and such objections are found tenable, the declaration issued under Section-6 of the Act would be deemed to have been set aside, otherwise not.”

Now, out of the 58 cases filed challenging the above acquisition, 38 cases were dismissed by this Court and there cannot be any different order in this batch of 20 cases though the learned counsel for the petitioners tried to persuade this Court to take a different view. This Court way back on

11.12.2003 in Writ Petition Nos.18918 and 22261 of 1999 held that it cannot interfere with or adjudicate upon the awards passed under the Act in a Writ Petition filed by the land owners and the only way to the land owners to ventilate their grievance about the award is by seeking reference under Sections-30 or 18 of the Act, as the case may be. Though elaborate arguments were advanced before another learned single Judge in Writ Petition No.17958 of 2007 and batch, those arguments were negatived and the said Writ Petitions were dismissed by a common order, dated 03.01.2014.

In the instant case, this Court noticed that the petitioners sought reference seeking enhancement of the compensation and the compensation was also enhanced after passing of the awards. Therefore, after enhancement of the compensation, it is a futile exercise for this Court to go into the merits of the contentions raised by the learned counsel for the petitioners relating to the validity of the order passed under Section 5-A of the Act.

In the circumstances, the Writ Petitions are dismissed. No costs.

As a sequel to dismissal of the Writ Petitions, the Miscellaneous Petitions, if any pending, are dismissed as infructuous.

JUSTICE A.RAMALINGESWARA RAO

07th December 2016

DR

