

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.20457 of 2016

ORDER:

In this Writ Petition, the petitioners question G.O.Ms.No.123 dated 30.07.2015 as illegal, arbitrary and contrary to the Telangana State Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act').

Learned counsel for the petitioners submits that G.O.Ms.No.123 dated 30.07.2015 does not provide for rehabilitation benefits and the same is contrary to the provisions of the Act since it deprives the benefits to be granted under Schedule II of the Act and, as such, the same has to be struck down. He also submits that there cannot be two methods for acquiring lands since the Parliament enacted the Act, the State has to acquire lands only by invoking the provisions of the Act and they cannot resort to G.O.Ms.No.123 and procure the lands depriving the land owners the benefits under the Act.

Learned Advocate General for State of Telangana submits that there is no averment in the affidavit filed in support of the Writ Petition filed by the petitioners that respondents are forcibly acquiring their lands under the impugned G.O, and that the impugned G.O. was issued for procuring the lands from willing owners and not for forcible acquisition. Learned Advocate General has taken this Court to the provisions of G.O. wherein clause 2 of the G.O. stipulates that it is a procedure for procuring lands from willing land owners, and when the petitioners are not willing to sell their lands as per the impugned G.O., the Government would always follow the provisions of the Land Acquisition Act, and the

Rules made thereunder. Learned Advocate General further submits that no cause of action arose for filing the Writ Petition and, on this sole ground, the Writ Petition is liable to be dismissed.

A perusal of the affidavit filed in support of the Writ Petition goes to show that, except stating that the impugned G.O. is contrary to the provisions of the Act and the Rules made thereunder, nowhere it is asserted that the petitioners' lands are sought to be acquired under the impugned G.O. forcibly. No challenge can be made when no cause of action arose and, on this sole ground, the Writ Petition is liable to be dismissed.

Clause 2 (i), (ii), (iii), (vii(d)) and (viii) of G.O.Ms.No.123 dated 30.07.2015 reads as follows:

- (i) The Procuring Agency will inform the District Collector about the land required for public developmental purpose along with necessary details.
- (ii) On receipt of such information, the District Collector will ascertain the willingness of the land owners for sale of land and property thereon.
- (iii) Subject to getting willingness from the land owners/authorized representatives for voluntarily selling their land and property, the District Collector shall inform about the number of such sellers, extent of land out of total indent, and likely consideration to the Procuring Agency.
- (vii(d)) The Committee may hear any oral / written representations made in respect of any claim / objection by the interested persons or their authorized representatives.
- (viii) The consideration as agreed by the individual land owners/owners and Procuring Agency before the District Level Land Procurement Committee shall inter-alia, include the value of land and property, perceived loss of livelihood, equivalent costs required for rehabilitation and resettlement of willing land owners and others.

A reading of the above clauses go to show procurement of

land from willing land owners. Clause 2(ii) also indicates District Collector has to ascertain willingness of land owners. Purport of impugned G.O. goes to show it is not forcible acquisition of land by exercise of power of eminent domain by the State. If petitioners are not willing to part with their lands under the impugned G.O. they cannot be forced and the State has to follow provisions of Act. As such there are no merits in the Writ Petition.

The Writ Petition is, accordingly, dismissed. However, State can procure the lands under impugned G.O. only if land owners consent for the same, otherwise, the respondents have to follow the procedure contemplated under the Land Acquisition Act. Miscellaneous Petition pending, if any, shall also stand dismissed. However, in the circumstances, without costs.

A.RAJASHEKER REDDY, J

Date:27.06.2016
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