

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.17694 OF 2007

ORDER:

Heard Mr.C.Raghu for petitioner and the learned Government Pleader (Land Acquisition).

The petitioner challenges proceedings No.Rc.G4/2007/2007 dated 24.07.2007 made under Section 5(A) of the Land Acquisition Act,1894 (for short 'the Act'), as illegal, arbitrary and unconstitutional.

On 14.05.2007, the 2nd respondent issued notification under Section 4(1) of the Act to acquire an extent of Ac.2-34 cents in Survey No.59 of Yenamalakuduru Village, Penamaluru Mandal, Vijayawada Division.

The 3rd respondent issued notice of enquiry to petitioner. Petitioner submitted objections on 04.06.2007 and through the proceedings impugned, the objections have been rejected. The challenge to proceedings dated 24.07.2007 is that the Land Acquisition Officer/District Collector did not examine the objections, appreciate the relevancy of the objections much less conducted any enquiry in the matter, but has prepared tabular statement of objections and treated the remarks given by Revenue Divisional Officer as findings and at the end observed as follows:

“In the above circumstances, the objections of the notified land holder against acquisition of subject land are hereby overruled, as there are no merits in the objections.”

Counsel for petitioner relies upon the decisions in *Usha Stud & Agricultural Farms (P) Limited v. State of Haryana*¹ and *Women's Education Trust v. State of Haryana*². The Hon'ble Supreme Court in the decisions cited above on the scope, ambit and procedure to be followed by the Land Acquisition Officer has held as follows:

Usha Stud & Agricultural Farms's case:

"Section 5-A, which embodies the most important dimension of the rules of natural justice, lays down that any person interested in any land notified under Section 4(1) may, within 30 days of publication of the notification, submit objection in writing against the proposed acquisition of land or of any land in the locality to the Collector. The Collector is required to give the objector an opportunity of being heard either in person or by any person authorised by him or by pleader. After hearing the objector(s) and making such further inquiry, as he may think necessary, the Collector has to make a report in respect of land notified under Section 4(1) with his recommendations on the objections and forward the same to the Government along with the record of the proceedings held by him. The Collector can make different reports in respect of different parcels of land proposed to be acquired.

Upon receipt of the Collector's report, the appropriate Government is required to take action under Section 6(1) which lays down that if after considering the report, if any, made under Section 5-A(2), the appropriate Government is satisfied that any particular land is needed for a public purpose, then a declaration to that effect is required to be made under the signatures of a Secretary to the Government or of some officer duly authorised to

¹ (2013) 4 SCC 210

² (2013) 8 SCC 99

certify its orders. This section also envisages making of different declarations from time to time in respect of different parcels of land covered by the same notification issued under [Section 4\(1\)](#). In terms of clause (ii) of the proviso to [Section 6\(1\)](#), no declaration in respect of any particular land covered by a notification issued under [Section 4\(1\)](#), which is published after 24.9.1989 can be made after expiry of one year from the date of publication of the notification. To put it differently, a declaration is required to be made under [Section 6\(1\)](#) within one year from the date of publication of the notification under [Section 4\(1\)](#).”

Women's Education Trust's case:

“The rule of audi alteram partem engrained in the scheme of Section 5-A of the Land Acquisition Act, 1894 ensures that before depriving any person of his land by compulsory acquisition, an effective opportunity must be given to him to contest the decision taken by the State Government/competent authority to acquire the particular parcel of land.

Any person interested in the land, which has been notified under [Section 4\(1\)](#) of the Land Acquisition Act, 1894 can file objections under [Section 5-A\(1\)](#) of the Act and show the purpose specified in the notification is really not a public purpose or that in the guise of acquiring the land for a public purpose the appropriate Government wants to confer benefit upon private persons or that the decision of the appropriate Government is arbitrary or is vitiated due to mala fides.

In response to the notice issued by the Land Acquisition Collector under [Section 5-A \(2\)](#) of the Land Acquisition Act, 1894 the objector can make all possible endeavours to convince the Land Acquisition Collector that the acquisition is not for a public purpose specified in the notification issued under [Section 4\(1\)](#) of the Land Acquisition Act, 1894; that his land is not suitable for the particular purpose; that other more suitable parcels of

land are available, which can be utilised for execution of the particular project or scheme.

The Land Acquisition Collector is duty bound to objectively consider the arguments advanced by the objector and make recommendations, duly supported by brief reasons, as to why the particular piece of land should or should not be acquired and whether the plea put forward by the objector merits acceptance. In other words, the recommendations made by the Land Acquisition Collector should reflect objective **application of mind to the entire** record including the objections filed by **the interested persons**. (Emphasis added)

The Land Acquisition Collector is required to submit his report and the recommendations to the State Government along with the record of proceedings to enable the latter to take final call on the desirability, propriety and justification for the acquisition of particular parcel(s) of land.”

The record is produced for perusal of this Court and the record does not show *prima facie* consideration except the paraphrasing the remarks of Revenue Divisional Officer. The learned Government Pleader does not dispute the proposition of law and the applicability to the case on hand.

Having regard to the circumstances and the principles of law laid down in the decisions referred above, the mode and manner of conducting enquiry much less consideration of objections is unsustainable. Hence, the writ petition is ordered and the proceedings of 2nd respondent/District Collector dated 24.07.2007 are quashed. No order as to costs.

The respondents are entitled to proceed in the matter, if circumstances warrant in accordance with law.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date: 23.09.2016

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