

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.Nos.24580 & 24756 of 2007

COMMON ORDER:

Heard the learned counsel for the petitioners and the learned counsel for the respondents in both the Writ Petitions.

2. In both these Writ Petitions, petitioners assailed Notification dt.24-07-2007 in Roc. No.G3/8810/07 issued by the District Collector, Chittoor proposing to acquire an extent of Ac.2.52 cts in Sy.No.202/3B of Vedanthapuram village, Tirupathi Rural Mandal, Chittoor District.

3. There is admittedly an *inter se* dispute between the petitioners in both these Writ Petitions which is pending adjudication in A.S.Nos.453 of 2003 and 613 of 2003 before this Court. Therefore, the *inter se* dispute between the petitioners in these Writ Petitions as well as the respondent Nos.4 to 21 in W.P.No.24756 of 2007 is not being gone into.

4. However, the counsel for all these parties assailed this Notification which proposed to acquire the above land for public purpose of "Sites and Services" on two grounds;

(a) That the said public purpose is vague;

(b) that the opinion to acquire the land for the

said public purpose is not formed by the State of Andhra Pradesh under Section 18 of the AP Urban Areas Development Act, 1975 and it is the opinion of the 3rd respondent only.

5. During the course of hearing of these Writ Petitions, it has come to the light that the above Notification under Section 4 (1) of the Land Acquisition Act, 1894 was not followed by any declaration under Section 6 of the said Act and no award has also been passed till date.

6. In the counter affidavit filed by respondent Nos.1 and 3, it is alleged that 2nd respondent through its Vice Chairman had submitted a requisition to 3rd respondent on 25-06-2007 for acquiring the subject land for Sites and Service programme and thereafter, proceedings under the Act had been initiated, approval was obtained from the 1st respondent and the impugned Notification was issued and published in the revenue records. It is stated that the petitioners had no right to define what is public purpose and what is not and that the Government in G.O.No.20 dt.08-01-1986 authorized the 1st respondent to discharge all the duties imposed on the State Government under Sections 4, 5-A, 6 and sub Section (4) of 17 of the Act, 1894 for the purpose of acquisition of land for construction and improvement of

houses and for developmental purposes undertaken by the 2nd respondent. It is contended that it was the intention of the respondents to provide dispute free house sites to the common man who is interested to settle in the temple town and to develop planned model and ideal township at Tirupathi

7. In the counter affidavit filed by 2nd respondent in para-2, it is stated that the requisition was issued by 2nd respondent on the basis of which 3rd respondent initiated the process of acquisition, but this is contradicted in para-6 of the counter by stating that 1st respondent initiated the proceedings for acquisition only on the recommendation of 3rd respondent and not at the request of 2nd respondent. Even in para-8, it is stated that 1st respondent issued the Notification on the recommendation of the 3rd respondent. Reliance has been placed on G.O.Ms.No.25 Municipal Administration dt.21-01-1987 and it is contended that the State Government had authorized 2nd respondent to acquire lands for Sites and Services and housing activities.

8. Under Section 18 of the AP Urban Areas (Development) Act, the Government may form an opinion that any land is required for the purpose of development or for any other purpose under the said Act, and it can then acquire such land under the provisions of the Land

Acquisition Act, 1894.

9. Section 56 of the said Act empowers the State Government to delegate any power exercisable by it under the Act to any officer subject to conditions which it might specify. The contents of G.O.Ms.No.25 Housing Municipal Administration and Urban Development (E1) Department dt.21-01-1987 indicate that Urban Development authorities can proceed with land acquisition proceedings and acquire lands including those belonging to small and marginal farmers to promote and secure development of all areas comprised in the development area. This G.O. mentions the words "Site and Service programme."

10. Therefore I am unable to accede to the contention of the petitioners that it is only the State Government which can form an opinion for development of the area comprised within the Tirupathi Urban Development Authorities jurisdiction.

11. However, the answer to question whether the Tirupathi Urban Development had itself come to the opinion that the lands claimed by the petitioners herein should be acquired for the above public purpose, is not very clear. This is because respondent Nos.1 and 3 state that the Vice Chairman of Tirupathi Urban Development Authority sent a requisition for acquisition for Sites and Services programme and thereafter the 1st respondent

issued the Notification. But in the counter filed by the Vice Chairman of the 2nd respondent authority in para-6, he states that 1st respondent initiated the acquisition process at the recommendation of the 3rd respondent only and not at the request of the 2nd respondent. This is repeated in para-8 of the counter where it is stated that 1st respondent issued Notification on the recommendations of 3rd respondent.

12. These two statements in paras 6 and 8 of the counter of 2nd respondent contradict his own pleading in para-2 that 2nd respondent placed a requisition for acquiring the said land under the Sites and Services programme and on that basis, 3rd respondent initiated process of acquisition of the suit land.

13. No record is produced before this Court by any of the respondents to show that 1st respondent initiated the acquisition process at the request of the 2nd respondent. Therefore, the admission in the counter of 2nd respondent that 2nd respondent had not requested for initiation of the land acquisition proceedings has to be accepted.

14. If this is so, then the question arises whether the 3rd respondent could make a requisition for acquisition of any land.

15. Admittedly under Section 18 of the said Act, the State Government has to form such opinion or if G.O.Ms.No.25 dt.21-01-1987 is taken into account, the 2nd respondent should form such opinion. The 3rd respondent, being only an employee of 2nd respondent, cannot form any such opinion that any land is required to be acquired for development in the area covered by Tirupathi Urban Development Authority.

16. That apart I am of the view that the words “Sites and Services” used in the Notification issued by the 1st respondent for acquiring the subject land is vague.

17. In **Madhya Pradesh Housing Board Vs. Mohd. Shafi and others**^[1], an acquisition for the purpose of “township and future projects” was held to be absolutely vague since the Notification did not indicate what is the nature of the township and for whose benefit the township was proposed to be constructed. The Supreme Court held:

“14. Apart from the defect in the impugned notification, as noticed above, we find that even the “public purpose” which has been mentioned in the schedule to the notification as “residential” is hopelessly vague and conveys no idea about the purpose of acquisition rendering the notification as invalid in law. There is no indication as to what type of residential accommodation was proposed or for whom or any other details. The State cannot acquire the land of a citizen for building some residence for another, unless the same is in “public interest” or for the benefit of the “public” or an identifiable section thereof. In the

absence of the details about the alleged “public purpose” for which the land was sought to be acquired, no one could comprehend as to why the land was being acquired and therefore was prevented from taking any further steps in the matter.

15. In Munshi Singh v. Union of India² the notification issued under Section 4(1) of the Act had stated the purpose for acquisition as “for planned development of the area”. A note was also appended in the notification to the effect that the “plan of the land may be inspected in the office of the Collector, Meerut”. This Court, dealing with the requirements of Section 4 in the context of the necessity to state with clarity the “public purpose” in the notification, observed: (SCC p. 342, para 6).

“It is apparent from sub-section (2) that the public purpose which has to be stated in sub-section (1) of Section 4 has to be particularised because unless that is done the various matters which are mentioned in sub-section (2) cannot be carried out; for instance, the officer concerned or his servants and workmen cannot do any act necessary to ascertain whether it is suitable for the purpose for which it is being acquired. If the public purpose stated in Section 4(1) is planned development of the area without anything more it is extremely difficult to comprehend how all the matters set out in sub-section (2) can be carried out by the officer specially authorised in this behalf and by his servants and workmen. “ (emphasis supplied)

18. In view of the above decision, it was incumbent on the part of the respondents to indicate the purpose for which the “sites” are required to be created, for whose benefit this is being done and whether the said acquisition is in public interest or for some other undisclosed interest.

19. The above decision has been followed in

**Gajjela Narasimha Reddy and others Vs. Collector,
Ranga Reddy District and another^[2].**

20. Although the learned counsel for the 2nd respondent relying upon **Dr.K.Sasidhar and others Vs. The District Collector, Chittoor and others^[3]** in support of his pleading that the observation Sites and Services programme is not vague, I am of the opinion that the said decision has been rendered in ignorance of the law laid by the Supreme Court in **Mohd. Shafi and others** (1 supra) and therefore the decision is *per incuriam*. Therefore, I am not inclined to follow it.

21. Accordingly both the Writ Petitions are allowed and the impugned Notification dt.24-07-2007 in Roc. No.G3/8810/07 is quashed.

22. It is made clear that the *inter se* claims of the petitioners in these two Writ Petitions as well as respondent Nos.4 to 21 in W.P.No.24756 of 2007 have not been gone into and it is open to them to seek adjudication of these *inter se* disputes in a competent Civil Court. No costs.

23. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 14-07-2016

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[\[1\]](#) (1992) 2 S.C.C. 168

[\[2\]](#) 2008 (5) ALD 302

[\[3\]](#) 1994 (2) ALT 461