

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition Nos. 454 and 14091 of 2009

Common Order:

These two Writ Petitions are being disposed of by this common order as they relate to the acquisition of land pursuant to a notification issued under Section 4(1) of the Land Acquisition Act (for short 'the Act') on 14.11.2008.

W.P.No.454 of 2009 was filed challenging the said notification issued for acquiring an extent of Ac.5.85 cents situated in Mudinepalli village and Mandal, Krishna district for the purpose of providing house sites to the weaker sections of the society. 11 petitioners claimed that they are small farmers and the said land was sought to be acquired for the purpose of Indiramma programme. It is also their case that they were sought to be served with a notice under Section 5-A of the Act and though an enquiry under Section 5-A would be conducted no useful purpose would be served.

The same petitioners filed W.P.No.14091 of 2009 challenging the proceedings held under Section 5-A of the Act dated 08.06.2009.

A counter affidavit is filed stating that the Government took a policy decision to develop model villages and the housing programme under Indiramma scheme is one of the programmes identified. It was noticed that 456 poor families were not having own houses or house sites and since no Government land was found suitable for constructing the houses an extent of Ac.5.85 cents which is situated nearer to the existing habitation was proposed for acquisition. A draft notification was published on 17.11.2008 in the District Gazette and on 23.11.2008 and 24.11.2008

in the local Newspapers. The petitioners were asked to attend Section 5-A enquiry on 05.01.2009. The petitioners filed W.P.No.454 of 2009 and this Court granted an order of stay of dispossession but the respondents were permitted to go ahead with the proceedings. The objections filed by the petitioners were considered and they were rejected as they were not tenable. After disposal of the objections, the petitioners filed W.P.No.14091 of 2009 and this Court granted interim stay, as a result of which they could not proceed further. It was further stated that the petitioners 4 and 6 are having lands in Singarayapalem village and Pedakamanapudi village of Mudinepalli Mandal and they are doing business in house building material. The petitioners 6 and 11 are doing kirana business and not depending on agricultural income. The remaining petitioners are small farmers, but those lands have to be acquired in order to form compact block. The land referred by the petitioners which is situated in RS No.360/3 is away from the existing habitation, whereas the land of the petitioners is adjacent to the existing extent and is situated besides Polytechnic College and suitable for developing a housing colony. With regard to the land in RS No.353 the land is still under the control of ONGC and it is meant for their future purpose. The land in RS No.297 is utilised for Pisciculture and it requires 5 feet levelling whereas the land of the petitioners requires 2 ½ feet levelling.

This Court in W.P.No.454 of 2009 granted interim direction to the respondents not to dispossess the petitioners from their lands, but gave liberty to the respondents to go on with the proceedings. But, in the subsequent W.P.No.14091 of 2009 interim stay of all further proceedings was granted, as a result of which the respondents could not complete the acquisition proceedings. In the meanwhile, the Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act No.30 of 2013) came into force with effect from 01.01.2014 and seven (7) years have lapsed since the date of publication of Section 4(1) notification. It is not known whether the earlier scheme of providing house sites to the weaker sections of the society is being pursued by the Government due to changed circumstances.

In the circumstances and in view of long lapse of time and also in view of the coming into force of Act 30 of 2013 with effect from 01.01.2014, the notification under Section 4(1) of the Act published on 17.11.2008 is quashed. However, this will not prevent the respondents from taking a decision and acquiring suitable land in case they want to provide house sites to weaker sections or for any other public purpose.

Both the Writ Petitions are, accordingly, allowed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in these Writ Petitions shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 14.12.2016
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