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HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.14146 of 2008

ORDER:

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This writ petition is filed for a *mandamus* declaring the order passed by the respondent No.3 vide Roc.No.G1/171/2007(SW), dated 10-06-2008, as illegal, arbitrary, violation of Section 5-A(2) of the Land Acquisition Act and Rule 3 of the Rules under Land Acquisition Act, 1894, Article 300-A of the Constitution of India and Circular Memo.No.10054/LA.1/2005, dated 22-04-2006 and consequently set aside the Notification vide Roc.No.SW/171/2007/G2, dated 27-04-2007 and other consequential proceedings.

2. The case of petitioners is that the respondent No.3 has issued notification, dated 27-04-2007 under Section 4(1) of the Land Acquisition Act, 1894, proposing to acquire the lands belong to petitioners. The enquiry under Section 5-A of the Act was not dispensed with. In pursuance of the notification under Section 4(1) of the Act, a notice under Section 5-A of the Act was issued by the respondent No.4 calling for objections. In the notice issued in Form-3 it is further recited that the objections will be enquired into on 17-05-2007. The petitioners went to the office of the respondent No.4 on 17-05-2007 as per the notice, dated 02-05-2007 and submitted objections to the Superintendent of the office of the respondent No.4, as the

respondent No.4 is not available in the office. Without giving an opportunity of personal hearing, respondent No.4 has submitted report to the respondent No.3 and the respondent No.3, without giving any opportunity of being heard as envisaged under Section 5-A of the Land Acquisition Act, passed the impugned order.

3. Though the counter-affidavit is filed, from the counter-affidavit it is not clear whether any personal hearing was granted to petitioners.

4. Learned counsel for petitioners also relied on a judgement reported in ***Hindustan Petroleum Corporation Ltd. Vs. Darius Shapur Chenai*** .^[1]

5. As held in the above decision, the petitioners, whose land is sought to be acquired, are required to be afforded personal hearing. Now the respondents have also admitted in the counter that petitioners have submitted objections. In view of the same, the impugned order is set aside and the respondent No.4 is directed to proceed with the matter by giving fresh notice and opportunity of being heard to petitioners and it is open for petitioners to avail the opportunity of hearing and submit further objections, if any. Thereafter, respondent No.4 shall pass appropriate orders after considering the objections of petitioners.

6. Accordingly, the Writ Petition is allowed. No order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

Date: 10-03-2016

SKMR

[\[1\]](#) (2005) 7 SCC 627