

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.6455 of 2008

ORDER

The petitioners are owners of small extents of land situated in Kaikaluru Village and Mandal, Krishna District. The lands were converted into fish tanks and pisci culture is being undertaken in the said land. It is their case that the said lands are not fit for house sites. While so, when Indiramma Programme was launched, a notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act') was published in the Krishna District on 30.8.1996 proposing to acquire the land to an extent of Ac.18.08 cents for the purpose of providing house sites. A notice under Section 5-A of the Act was issued on 1.9.2006 directing the respondents to submit their objections. Accordingly, the petitioners appeared before the 3rd respondent and submitted their objections. However, without considering the objections, declaration under Section 6 of the Act was issued on 27.12.2006 and notice under Sections 9 (3) and 10 of the Act was forwarded to all the petitioners on 24.1.2007 directing them to appear before the 3rd respondent. Questioning the same, the petitioners filed W.P.No.1153 of 2007 before this Court and the same was disposed of on 15.11.2007 quashing the notices issued under Sections 9 (3) and 10 of the Act, directing the respondents to furnish copy of the order rejecting the objections filed by the petitioners.

It appears that after disposal of the said writ petition, copy of the order passed by the District Collector, Krishna District, dated 14.12.2006 was furnished to the petitioners. Challenging the same, the petitioners filed an appeal before the Government in the year 2008 and the same is not yet disposed of. When another notice dated 7.3.2008 was issued under Sections 9 (3) and 10 of the Act, the present writ petition was filed.

While issuing notice before admission on 27.3.2008, this Court directed the respondents not to dispossess the petitioners and the said order has been in operation till today.

Since the interim order is only to the extent of protecting the petitioners from being dispossessed, nothing prevented the respondents from passing an award within the time prescribed under the provisions of the Act, which prescribes a period of two years for passing of award from the date of declaration. The award was not passed and possession was not taken. In the meanwhile, Act 30 of 2013 came into force with effect from 1.1.2014.

The effect of Section 11-A of Act 1894 and Section 24 (1) (A) of Act 30 of 2013 came up for consideration before the Supreme Court in *Laxmi Devi v. State of Bihar*¹ & *Soorajmull Nagarmull v. State of Bihar and others*², wherein finding some inconsistency in reconciling the provisions, it has ultimately been held that the proceedings stood lapsed and hence the respondents were directed to initiate fresh acquisition proceedings or take any action in

¹ (2015) 10 SCC 241

² (2015) 10 SCC 270

accordance with law, if possession was already taken. If possession was not taken, it was left open to the respondents to take appropriate proceedings, if they want to acquire the land.

In the circumstances, the writ petition is allowed holding that proceedings of the acquisition pursuant to the declaration made on 27.12.2006 stood lapsed. If the respondents want to acquire the land, they shall initiate fresh proceedings in accordance with law. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

17th November, 2016
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