

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.22910 and 22911 of 2011

COMMON ORDER:

1. These two Writ Petitions are being disposed of by this common order as they relate to the acquisition of land under Indiramma Housing Programme in Penugonda Village and Mandal, West Godavari District.
2. The petitioner in W.P.No.22910 of 2011 claims that she is the absolute owner and possessor of agricultural land admeasuring Ac.0.79 cents situated in R.S.No.18/2 of Penugonda village, West Godavari District having acquired the same under a registered family settlement deed dated 14.03.2008. She filed the above writ petition on coming to know that the signatures of her mother were obtained for the purpose of negotiations in the month of February 2011 by the Sarpanch of the village. She challenged the assignment of the land in favour of the third parties without following any procedure contained under the provisions of the Land Acquisition Act, 1894.
3. W.P.No.22911 of 2011 was filed by the three petitioners for similar relief in respect of the land admeasuring Ac.0.14-5/6 cents, Ac.0.14-5/6 cents and Ac.0.29 cents respectively in Rs.No.18/2 of Penugonda village, West Godavari District under Indiramma Housing Programme. Their case is that they are the absolute owners

of the said property having acquired the same under a registered family settlement deed dated 04.03.2008.

4. As per the averments made in the counter-affidavit filed by the 2nd respondent, it appears that the respondents found 1652 families were not having own houses or house sites and they were identified as beneficiaries under Indiramma Housing Programme. An extent of Ac.26.78 cents in R.S.No.247/2 etc., of Penugonda village was identified for acquisition. A notification was issued and published in the Gazette on 28.08.2008 followed by a declaration on 06.01.2009. Due notices were issued to the interested persons and an award was passed on 21.01.2011. Since no one claimed the compensation amount, the same was deposited in Civil Court under Section 31 of the Land Acquisition Act.

5. This Court by order dated 16.08.2011 in W.P.No.22910 of 2011 directed the respondents not to dispossess the petitioner therein from the land without following due process of law.

6. In the light of the arguments advanced by the learned Counsel for the petitioners that the petitioners were not put on notice, the entire record relating to the acquisition was called for and it is noticed that initially the draft notification was published in the Gazette on 28.08.2008 in respect of the land of an extent of Ac.26.78 cents in various survey numbers. Later on, it was found that an additional extent of Ac.6.68 cents in Rs.18/2A etc., was required and the total extent comes to Ac.33.46 cents. The Addendum to the draft

notification was approved by the District Collector on 06.12.2008. But, no notification of addendum was published in the Gazette or in the local newspapers. However, the Land Acquisition Officer submitted a report under Section 5A of the Land Acquisition Act without issuing any notice to the petitioners in respect of the additional land also. An award appears to have been passed on 21.01.2011 in respect of an extent of Ac.1.34 cents in R.S.No.18/2A of Penugonda village claimed by the petitioners. As on today, the possession of the land was not taken nor any amount was paid to the petitioners. However, the learned Government Pleader for Land Acquisition submits that in respect of the balance extent of land, the possession was taken. Be that as it may, the addendum, which was approved by the District Collector, showed that an extent of Ac.0.29 cents each in the names of Gudimetla Venkata Perreddy @ Padmareddy and Gudimetla Veera Brahma Reddy and Ac.0.76 cents in the name of Gudimetla Suryakantham, situated in R.S.No.18/2A was approved for the purpose of acquisition along with other extents and the total extent comes to Ac.6.68 cents. The petitioners in these two writ petitions only challenged the non-issuance of notice or publication of notification. The land covered in the present writ petitions is situated in R.S.No.18/2A and the petitioners claimed the same under registered settlement deeds. There is no evidence to show that the 4 (1) notification was published in respect of the additional land and the petitioners land forms part of the said additional land. In the absence of any challenge to the said

procedure by the other land owners, this Court is not inclined to hold anything with regard to the irregularity of total extent of Ac.6.68 cents except to the extent of Ac.1.34 cents covered by these two writ petitions situated in R.S.No.18/2A of Penugonda Village and Mandal, West Godavari District. Though the 6 (1) declaration was published, no notice was issued and no enquiry was conducted in respect of the land claimed by the petitioners.

7. In the circumstances, the acquisition of the land culminating the award in respect of the land of the petitioners is set aside and the respondents are restrained from taking possession of the said land. However, this will not prevent the respondents from taking appropriate action in accordance with law if they so chooses.

8. These two Writ Petitions are accordingly allowed. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

17-11-2016

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