

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.21454 of 2017

ORDER:

The Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus to declare the inaction of the respondents 2 to 4 to consider the claim/ objection dt.06.05.2017 of the petitioners by issuing resumption order in their favour along with 5th respondent and pay an exgratio land acquisition compensation of their assigned lands i.e., Ac.4.00 cents and Ac.2.15 cents in total Ac.6.15 cents in R.S. No.155/1 of Naralavaram Village, Velerupadu Mandal, West Godavari District as illegal, arbitrary and violation of Section 11 (a), 19 (1) & 15 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 also the Provisions of the Panchayats (Extension to the Schedule Areas) Act, 1996 and consequently direct the respondents 2 to 4 to consider the claim/ objection dt.06.05.2017 of the petitioners by passing resumption order and to pay an ex-gratio compensation to them in respect of lands i.e., Ac.4.00 cents & Ac.2.15 cents in total in Ac.6.15 cents in R.S. No.155/1 of Naralavaram Village, Velerupadu Mandal, West Godavari District as per law and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2) Heard learned counsel for the petitioners as well as learned Government Pleader for Land Acquisition appearing for the respondents before ordering notice to 5th respondent and perused the prayer in the writ petition with supporting affidavit.

3) It is the contention of learned counsel for the petitioners that despite representation/ objection made by the

petitioners on 06.05.2017 the same was not considered by the respondents. Learned Government Pleader for Land Acquisition, from the written instructions received, submits that pursuant to the Notification under Section 11 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act'), there are no written objections filed much less any participation by the petitioners under Section 15 of the Act and even in the Gram Sabha conducted for the social impact assessment survey as per Act 30 of 2013 and that the proceedings are pending for proposed publication of declaration under Section 19 of the Act.

4) From the above submissions, it is not even the case of the respondents, from the written instructions, that the declaration is published under Section 19 of the Act.

5) Having regard to the above, while directing the petitioner to give a fresh representation within one week from the date of receipt of a copy of this order, the respondents are directed to consider the same also by hearing the objections of 5th respondent, if any, and pass appropriate orders in accordance with law. Needless to say, for assignment of petitioners' land, by virtue of the judgment of this Court in **LAO-cum-RDO, Chevella Division vs Mekala Pandu¹**, they are entitled to compensation as if the absolute owners as determined by Apex Court in Civil Appeal No.7904 and 7912 of 2012 dated 04.08.2014 and the said finding was also recorded by a Division Bench W.A. No.1604 of 2015 reiterating the Mekala pandu (supra) dismissing the writ

¹ 2004 (2) ALD 451

petition filed by the Land Acquisition Officer on behalf of State vide order dated 06.02.2017.

6) Accordingly and in the result, the writ petition is disposed of. No order as to costs.

7) Consequently, miscellaneous petitions pending, if any in this writ petition shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 20.07.2017
Knl

