

HON'BLE SRI JUSTICE S.V. BHATT

Writ Petition No.4564 of 2009

ORDER:

Heard Mr. Shanmukha Rao for petitioner and the Assistant Government Pleader (Land Acquisition) for respondents.

2. The petitioner prays for writ of *Mandamus* declaring the Proceedings No.C/ 212/ 09 dated 11.02.2009 of the 3rd respondent and the notice issued under Section 5-A of the Land Acquisition Act, 1894 (for short 'the Act'), proposing to acquire an extent of Ac.7.29 guntas of petitioner in Sy.No.487 at Jajireddy Gudem Village & Mandal, Nalgonda District, as illegal, arbitrary, violative of principles of natural justice.

3. The respondents issued notice impugned in the writ petition proposing to acquire the subject matter of the writ petition for providing houses to weaker sections under a welfare scheme implemented by the State Government. In pursuance of the Notice dated 11.02.2009, the petitioner appeared before the Land Acquisition Officer on 26.02.2009 for enquiry under Section 5-A of the Act and submitted his objections.

4. On 05.03.2009, this court granted interim direction to respondents not to dispossess petitioner from his lands. However, the other proceedings may go on. With effect from 01.01.2014, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act No.30 of 2013) has come into force.

5. Mr. Shanmukha Rao contends that the writ petition was filed apprehending dispossession of petitioner from the subject land and also not providing opportunity in the enquiry conducted by 3rd respondent for the experience of petitioner is that without following the procedure under the Act, small and marginal farmers are dispossessed from the lands under

acquisition. Hence, the writ petition was filed. The possession of petitioner was protected and the authorities were not allowed to proceed with, viz., draft declaration and passing of award. Therefore, he raises two legal objections against continuation of the instant land acquisition proceedings, firstly that the respondents are under obligation to publish draft declaration under Section 6 of the Act, within one year from the date of 4(1) notification, in the case on hand the draft declaration was not yet published and even assuming that enquiry is completed, however, no order is passed on the objections filed by petitioner and therefore, no other step under the Act could be taken. He also places reliance on Section 11-A and contends that even if any order is passed behind the back of petitioner, the order goes against Section 11-A of the Act. Therefore, prays for allowing the writ petition.

6. Learned Assistant Government Pleader, opposes the writ prayer by contending that the writ petition is filed on mere apprehension and that the petitioner cannot take advantage of the interim order obtained in the writ petition and the authorities are under *bona fide* impression that the interim order prevents the authorities from proceeding in any manner in the subject acquisition and therefore further steps were not taken. He fairly submits that according to the stand taken in the counter-affidavit the land acquisition proceedings are held back at the stage of enquiry and no further steps were taken.

7. I have perused the material on record, taken note of submission of counsel for parties and having regard to the language of Section 6 of the Act and also limited interim direction granted by this court, the respondents, cannot now seek for continuation of land acquisition proceedings. The land acquisition proceedings are lapsed

8. The writ petition is ordered and impugned 4(1) Notification dated 06.02.2009 issued by 2nd respondent and Section 5-A notice No.C/ 212/ 09 dated

11.02.2009 issued by 3rd respondent, are set aside. No order as to costs.
Pending miscellaneous petitions if any in this writ petition shall stand dismissed
in consequence.

Date: 22.08.2017
BSS

S.V.BHATT, J



HON'BLE SRI JUSTICE S.V. BHATT

18

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