

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.7011 of 2009

ORDER:

Heard Sri A.Ravinder for petitioner, Assistant Government Pleader for respondent Nos.1 and 2 and Sri N.S.Pattabhi Rama Rao for respondent No.3.

The petitioner prays for mandamus declaring the action of respondents in not including the house of petitioner in the notification issued under Section 4 (1) and draft declaration under Section 6 of the Land Acquisition Act, 1894 (for short 'the Act') in the proposed acquisition for Singareni Collieries Company Limited-respondent No.3 herein, as illegal, arbitrary and unconstitutional.

On 22.04.2007, notification under Section 4 (1) and on 26.11.2007, draft declaration under Section 6 of the Act were issued. The case of petitioner is that the respondents are proposing to acquire land for Depillaring Operations at GDK 6B Section of GDK 6B (1GM) for the benefit of respondent No.3. The house of petitioner is identified as project house No.147 and is located in the land proposed for acquisition. The joint inspection revealed the existence of house No.147 and non-inclusion of existing house in land acquired through notification and declaration referred to above, is illegal, arbitrary

and unconstitutional. On 04.02.2008, the petitioner claims to have given representation ventilating all the grievances the petitioner has in this behalf and in spite of representation, further corrective steps for including subject house are not taken by respondents. Hence, the writ petition for the prayer referred to above.

On 02.04.2009, this Court directed respondents to consider and dispose of representation, dated 04.02.2008. Respondent No.3 filed counter-affidavit and WVMP No.1583 of 2009 to vacate the interim order, dated 04.02.2009.

Learned counsel have consented to disposing of the writ petition at this stage of the matter.

Respondent No.2, on the existence of project house No.147, has stated that on the request of villagers of Jallaram Villae, a decision was taken to acquire the lands and houses by respondent No.3-Company on humanitarian grounds. A team consisting of Special Deputy Collector, Land Acquisition Unit, Special Deputy Tahsildar, a Surveyor from Government, a Survey Officer from Company and Officers from Estate Department and the Sarpanch of Village have undertaken a joint inspection of the subject village. On 16.11.2006, the joint inspection was completed and in the report prepared on even date, the details of houses, trees etc., have been recorded by the Joint Inspection Team. The report was signed by all the concerned. According to

the report, a few houses are in dilapidated condition and two houses covered by Survey Nos.150 and 151 were constructed newly. The subject house of the writ petition is covered by Survey No.604 of Jallaram Village. The physical features and structures have been noted and recorded in the inspection report, dated 16.11.2006. According to respondent No.2, the houses are identified with reference to door numbers and identification of house by project number is disputed. According to respondent No.2, as on the date of inspection, the subject house is not in existence and the complaint is made after fairly long time from the date of inspection. In other words, it is contended that the house, if any, for which inclusion is sought in the writ petition, is a subsequent construction and the same cannot be included in the notification/draft declaration referred to above. Respondent No.2 further contends that the very prayer for inclusion encourages dishonesty and that there is also no evidence establishing the existence of structure on the date of issuing notification under Section 4 (1) of the Act.

Respondent No.3, more or less, supports the stand taken by respondent No.2. Further, respondent No.3 places on record letter, dated 16.03.2009, addressed by the General Manager, Ramagundam Area-II to the Special Deputy Collector, LAUNIT, SCCL, Godavarikhani referring to putting in place a few structures after notification under Section 4 (1) of the Act. The letter refers

to putting in place AC sheet structure by Kandari Shankar Lingam-petitioner herein between project house Nos.147 and 148 and also two other new structures.

The petitioner, in the instant writ petition, challenges the action of respondents in not including project house No.147 in 4(1) notification/draft declaration, as illegal and unconstitutional. The petitioner, for the purpose of either inaction of respondents or at least for enforcing petitioner's right, is under legal obligation to *prima facie* show the existence of a structure on the date of notification under Section 4 (1) of the Act.

Examining the grievance of petitioner on the above requirement, it is to be noted that on 04.02.2008, the petitioner filed representation against non-inclusion of the house for which compensation is claimed. On 05.09.2006, petitioner claims to have constructed a house by taking prior permission from the local body. There is no documentary evidence in support of either of these circumstances. This Court cannot accept the *ipse dixit* assertion of petitioner, particularly in the light of the inspection of village, undertaken by the team consisting of Special Deputy Collector, Land Acquisition Unit, Special Deputy Tahsildar, a Surveyor from Government, a Survey Officer from Company and Officers from Estate Department and the Sarpanch

of Village and report, dated 16.11.2006. The petitioner failed to make out case for granting the writ prayer.

Writ petition fails and is accordingly dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

S.V.BHATT,J

Dt:31.07.2017

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