

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.10458 OF 2006

ORDER:

This Writ Petition came to be filed seeking issuance of a Writ of Mandamus declaring the action of the respondents in acquiring the lands of the petitioners situated at Katuru Village, Vuyyuru Mandal, Krishna District, as illegal and arbitrary.

Heard both sides.

The averments made in the affidavit filed in support of the writ petition would show that the petitioners are the owners and possessors of lands in survey Nos.817/9B; 338/3A admeasuring Ac.0-72 cents; survey Nos.338/4, 817/11, 338/3b; 817/13; 818/12; 818/17 an extent of Acs.3-53 cents; survey No.338/3b; 817/12 an extent of Ac.1.08 cents and survey No.339/1 an extent of Ac.1.91 cents situated at Katuru Village, Vuyyuru Mandal, Krishna District. It is their case that with an intention to acquire the lands of the petitioners for the purpose of providing house plots to weaker section people, the respondents took measurements of the subject lands. It is the grievance of the petitioners that without taking steps for acquisition, the authorities are trying to dispossess the petitioners. Challenging the same, present Writ Petition came to be filed.

By an order dated 25.05.2006, this Hon'ble Court while admitting the writ petition, directed the parties to maintain *status quo* obtaining as on that day for a period of four weeks from that date. Thereafter, the said order was not extended.

However, WVMP No.467 of 2007 came to be filed along with a counter affidavit stating that land admeasuring Acs.6-10 cents located in different survey numbers situated at Katuru Village was proposed for acquisition, to provide house sites to weaker sections of the Society. Accordingly, a Draft Notification u/s.4 (1) of the Land Acquisition Act was issued through Revenue Divisional Officer, Nuzvid, to the District Collector, Krishna., who in turn, approved the proposals and the draft notification was published in Krishna District Gazette in 31/06 dated 01.06.2006. At that point of time, the petitioners approached this Court by filing the present writ petition. In view of the interim order of *status quo* passed by this Court on 25.05.2006, the respondents could not proceed further with the matter. It is the specific case of the respondents that due process prescribed under Land Acquisition Act is followed in the present case. It is further urged that the petitioners would be entitled for payment of compensation for the land acquired for public purpose.

Learned Government Pleader for Land Acquisition, on instructions, submits that though the government is in need of the subject lands, till date they have not proceeded further in the matter nor possession was taken though they invoked urgency clause dispensing with 5-A enquiry.

In ***Laxmi Devi vs. State of Bihar***¹, the issue that fell for consideration before the Apex Court was ‘whether the Land Acquisition Act, 1894, as amended from time to time, requires an Award to be passed even in respect of lands expropriated by the State pursuant to the exercise of special powers in cases of

¹ (2015) 10 SCC 241

urgency contained in Section 17 thereof?'. After considering the scope of Section 24 of the Act at length, the Apex Court observed that the entire proceedings will get lapsed if no award is passed within two years. Relevant portion of the said judgment runs as follows:

The main proposals for amendment are as follows:

.....

(v) It is proposed to provide for a period of two years from the date of publication of the declaration under Section 6 of the Act within the collector should make his award under the Act. If no award is made within that period, the entire proceedings for the acquisition of the land would lapse. He has also been empowered to correct clerical or arithmetical mistakes in the award within a certain period from the date of the award."

Since possession is not taken in spite of invoking urgency clause though there is no stay and in view of the ratio laid down by the Apex Court in ***Laxmi Devi case (supra)***, this Court is of the view that the Writ Petition deserves to be allowed and accordingly the same is allowed quashing the 4 (1) Notification published in "Janatha" Daily Telugu news paper dated 09.06.2006 vide R.C.G4/24/2439/06 dt.26.05.2006 issued for acquiring the lands in survey Nos.817/9B; 338/3A admeasuring Ac.0-72 cents; survey Nos.338/4, 817/11, 338/3b; 817/13; 818/12; 818/17 an extent of Acs.3-53 cents; survey No.338/3b; 817/12 an extent of Ac.1.08 cents and survey No.339/1 an extent of Ac.1.91 cents situated at Katuru Village, Vuyyuru Mandal, Krishna District. However, if the respondents still intend to acquire the land they are at liberty to initiate fresh proceedings under the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Miscellaneous petitions pending in this petition, if any, shall stand closed. No order as to costs.

C. PRAVEEN KUMAR, J

Date: 31.01.2017
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