

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.25925 OF 2006

ORDER:

Writ petition is filed questioning the notification issued under Sections 4(1), 5A and Section 6 of the Land Acquisition Act, 1894 (for short, "the Act") issued on 20.09.2006 and 21.11.2006 respectively without mentioning the name of the petitioner as the land owner as illegal and arbitrary.

It is the case of the petitioner that he is the owner of the land over an extent of Ac.1.12 cents in Sy.No.96/4, Vedurumudi Village, Kapileswaram Mandal, East Godavari District, having acquired the same vide registered partition deed dated 31.01.2000. Petitioner was also issued pattadar pass book and his name was also entered into the revenue records. Section 4(1) notification under the Act was issued on 20.09.2006 proposing to acquire the land over an extent of Ac.0.72 in Sy.No.96/4 forming part of the land over an extent of Ac. 1.12 cents in the said survey number. Petitioner claims that he is a small farmer and further the invocation of urgency clause for the purpose of providing house sites under the "Indiramma Housing Scheme" does not fall within the scope of Section 17 of the Act permitting the invocation of urgency clause. Petitioner further submits that at no point of time his name was shown in the notification issued under Section 4 (1) of the Act and Section 6 declaration. Petitioner was also not issued any notice at any point of time.

Respondent filed a counter-affidavit asserting that the procedure prescribed under the Act was followed and land acquisition notification was published in the E.G District gazette,

news paper and locality. Thereafter, as the possession was not taken notices were issued on 20.09.2006 under Section 5A inviting objections from the land owners. Petitioner's father has appeared on 13.10.2006 and submitted his objections on the acquisitions. The objections were considered and a decision was taken by rejecting the objections. Accordingly, the draft declaration was issued under Section 6 of the Act. However, no award was made.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

Having considered the respective submissions, it may be noted that Section 6 declaration said to have been published on 22.11.2006. However, no award has been made within the period of two years from the date of Section 6 declaration. Inasmuch as no award was passed within the time stipulated on account of operation of Section 11A of the Act, the land acquisition proceedings would lapse and the writ petition is liable to be allowed.

Accordingly, the writ petition is allowed setting aside the notification issued under Sections 4(1), 5A and Section 6 of the Land Acquisition Act, 1894 (for short, "the Act") issued on 20.09.2006 and 21.11.2006 respectively. Miscellaneous petitions, if any pending shall also stand closed. No order as to costs.

CHALLA KODANDA RAM, J

Date:09.08.2017.

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THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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