

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.18700 OF 2006

ORDER:

The Notification dated 01.07.2006 issued under Section 4(1) of the Land Acquisition Act, 1894 (in short "the Act"), by the 1st respondent-the Collector, West Godavari District is challenged in this Writ Petition.

2. It is the contention of the petitioner that she is a small farmer, owning a land over an extent of Ac.0-42 cents situated in Sy.No.66/8A, Ac.0-38 cents in Sy.No.66/8B and Ac.0-69 cents in Sy.No.111/1 of Vemuluru village, as such the acquisition of land for the purpose of providing house sites is contrary to the various guidelines issued by the Government from time to time. It is further contended that there are about 20 acres of poramboke lands situated in Sy.Nos.78, 221 and 222, which are useful for providing house sites rather than her fertile and cultivable land. It is further submitted that the land acquired in the year 1999 for the same purpose has not been completed and many of the plots are kept vacant from the last seven years and also there is land in continuation to the said land. It is further submitted that she was deprived of an opportunity of hearing under Section 5-A enquiry, which is said to have been conducted on 07.08.2006. Hence, the present writ petition.

3. A counter affidavit has been filed by the 2nd respondent-Revenue Divisional Officer, Kovvuru stating that a Notification dated 01.07.2006 was issued under Section 4(1) of the Act for acquiring an extent of Ac.5-69 cents in R.S.Nos.66/2, 66/3a, 66/3b, 66/8a, 66/8b and 67/2 situated in Vemuluru village of

Kovvur Mandal for the purpose of providing house sites to the weaker sections of the society and after issuing Section 5-A notices, dated 29.07.2006 conducted an enquiry and after considering the objections the same were rejected on 07.08.2006 stating that the said land is inevitable as there is no Government land available in Vemuluru village, which is fit for issue of house site pattas. Section 4(1) Notification has been approved by the District Collector and a draft notification was published in the West Godavari District Gazette on 05.07.2006. It is further submitted that the land in R.S.No.78 stands classified as Mandabailu Poramboke and a proposal has been initiated for conversion of Mandabayulu poramboke into village site for providing house site pattas to the eligible Sivaijamedars; and the land in R.S.No.222 stands classified as Puntha poramboke in Village Accounts and a pucca road is passing in the land and the land in R.S.No. 221 is a private land and hence there is no Government land available in these survey numbers. It is further submitted that the beneficiaries, who were identified in the year 1999 for allotment of plots, were not included in the present list of beneficiaries identified under Indiramma Programme. It is also further submitted that the petitioner has attended the Section 5-A enquiry along with other land owners and submitted their common objections, which were rejected by the Land Acquisition Officer, vide proceedings dated 13.08.2016. Hence, prayed for dismissal of the Writ Petition.

4. Learned counsel for the petitioner places reliance on the judgment of this Court in **Malireddy Rajasekhara Reddy and**

Others v. District Collector, Krishna District and another¹ to

support his contention that though the Government is under obligation to look after the welfare of the weaker sections, the implementation of welfare scheme should not result in uprooting the livelihood of the small and marginal farmers and the acquisition of the land of the small farmers for the purpose of house sites is contrary to the various guidelines issued by the Government from time to time. It is also further submitted that, as a matter of fact, on earlier occasion W.P.Nos.17726 and 18756 of 2006 were filed questioning the Notification dated 01.07.2006 issued under Section 4(1) of the Act for the very same purpose and the same were disposed of on 07.07.2010 recording the submission of the learned Assistant Government Pleader that the proposals to acquire the land admeasuring Ac.6-97 cents in R.S.No.73 of Vemuluru village has been dropped.

5. Learned Government Pleader had placed on record the communication received from the office of the Revenue Divisional Officer, Kovvur-2nd respondent, as per which what has been stated is the land is needed for providing house sites to weaker section people and there is no Government land available in Vemuluru village for providing house sites. Except stating that the land is required for distribution of house sites to the weaker section people, nothing has been stated in the instructions. The instructions are silent with respect to whether any Award has been made, whether possession of the land has been taken over and whether any declaration under Section 6 of the Act has been made in the present case.

¹ 2006 (2) ALD 564

6. This Court while admitting the writ petition on 11.09.2006 had granted interim stay as prayed for. The fact of the matter is that as of date Act 1 of 1894 is repealed and the pending acquisition proceedings are saved only to the limited extent. In the case on hand, there is no Award made and there is also no declaration made under Section 6 of the Act. In the circumstances, it is futile exercise to continue the land acquisition proceedings under the impugned notification, that too when the very same Notification was challenged before this court in W.P.Nos.17726 and 18756 of 2006, the Government itself has dropped said Notification stating that the earlier proposals have been dropped and it is now proposed to acquire the land admeasuring Ac.6-97 cents in R.S.No.73 of Vemuluru Village. Hence, the present impugned Notification is liable to be set aside.

7. Accordingly, the writ petition is allowed setting aside the impugned notification dated 01.07.2006, issued under Section 4(1) of the Act. However, in view of the assertion of the respondents, if the land is required for house sites, liberty is given to the respondent authorities to initiate appropriate land acquisition proceedings in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act. 2013. There shall be no order as to costs.

8. Consequently, the Miscellaneous Petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM, J

Date:09.08.2017.
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