

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**WRIT PETITION No.20921 OF 2017**

**ORDER:**

Heard learned counsel for the petitioners and the learned Government Pleader for respondents.

The petitioners challenge the Preliminary Notification dated 18.02.2017 issued under Section 11(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013, for brevity), when the land of an extent of Acs.9.40 cents of the petitioners was proposed to be acquired for the purpose of construction of houses to the BPL families of Tanuku Town. The land is situated in Survey Nos.161/1, 161/2A, 161/2B and 161/2C of Kapavaram Village, Peravali Mandal, West Godavari District. It is the case of the petitioners that vast extent of land in Tanuku town is available and the land in Kapavaram, which is at a distance of 10 Kms from Tanuku, cannot be acquired, and though they filed their objections on 03.03.2017, without considering their objections, a Declaration was published on 27.05.2017. Challenging the Notification under Section 11(1) and the Declaration under Section 19 of Act 30 of 2013, the present writ petition is filed.

The third respondent filed a counter affidavit stating that the Government issued instructions for providing house sites to beneficiaries of Tanuku town for the applications received for house sites during Janmabhoomi programme. The applications were got enquired and finally 5023 beneficiaries were identified, for which an extent of Acs.48.00 cents was acquired for the purpose of issuing house sites. No suitable private or Government land was available, and an extent of Acs.9.40 cents in Kapavaram Village of Peravali Mandal was identified and proposals were submitted to the District Collector, West Godavari District, Eluru. A preliminary Notification was issued under Section 11(1) of Act 30 of 2013 for acquiring said extent of Acs.9.40 cents situated in Rs.Nos.161/1, 161/2A, 161/2B and 161/2C of Kapavaram Village.

The Revenue Divisional Officer, Kovvur, issued notices to the land owners to attend enquiry under Section 15(2) of Act 30 of 2013 on 18.02.2017, but no one attended the enquiry. They filed their objections before the Revenue Divisional Officer, Kovvur, through their Advocate through Post within the stipulated time. After examining the objections, a report was submitted to the Collector stating that 5023 beneficiaries were identified during Janmabhoomi programme and all the beneficiaries are to be provided house sites and accordingly, a Declaration was published on 27.05.2017.

Learned counsel for the petitioners submits that the Collector is not the competent authority to reject the objections. They cannot acquire the land in Kapavaram Village which is far away from Tanuku town and no Gram Sabha was conducted in the instant case. The learned Government Pleader submits that the Collector is the competent authority and since no land was available in Tanuku town, the land in Kapavaram village is sought to be acquired. He further submits that since there is no displacement of group of persons, no Gram Sabha need be conducted in the instant case.

It is clear from the facts of the case that on the applications filed by the landless poor persons, 5023 beneficiaries were identified and it necessitated acquisition of Acs.48.00 cents of land. The said extent of land was not found in Tanuku town and as the land of an extent of Acs.9.40 cents was identified in Kapavaram Village, the said land is proposed for acquisition. The definition of 'Appropriate Government' under Section 3(e) of Act 30 of 2013 includes the District Collector in case of public purpose in a District. The proviso to the said definition 'Appropriate Government' under Section 3(e) of Act 30 of 2013 makes it clear. Hence, the Collector is the competent authority for considering the objections and issuing Declaration also. The point relating to Gram Sabha is concerned, now it is stated that since there are no displaced persons, there is no need for conducting a Gram Sabha. It is true from the facts of the case that the land is sought to be acquired for providing house sites to the landless poor persons. Sub-section (2) of Section 11 of Act 30 of 2013 provides for

information to the concerned Gram Sabha at the village level, Municipalities in case of municipal areas and Autonomous Councils in case of areas referred to in the Sixth Schedule to the Constitution and it is not the case of the petitioners that they are not aware of the Notification. Hence, there is no need for conducting a Gram Sabha and Tanuku town is a municipal area. The petitioners are aware of the Notification issued under Section 11(1) of Act 30 of 2013 and they filed their objections through their Advocate on 03.03.2017 and the said objections were rejected by a speaking order on 07.05.2017. The other objection relating to the location of the land, which is sought to be acquired has no substantial basis as it is for the Government to identify the land when the land is not available in Tanuku town.

In view of the facts and circumstances of the case, this Court sees no ground to interfere with the Declaration published by the Government on 27.05.2017 and the writ petition is accordingly dismissed.

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

11.10.2017  
pln

**A.RAMALINGESWARA RAO, J**