

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.20337 OF 2009

ORDER:

Heard Mr.Ganesh Rao for petitioner and the Government Pleader for Land Acquisition.

The petitioner prays for Mandamus declaring notification under Section 4(1) of the Land Acquisition Act,1894 (for short 'the Act') dated 22.08.2008 issued by respondent No.1 and the further proceedings under Sections 9 (3) and 10 of the Act of respondent No.2 in File No.AA/1065/2008 dated 26.08.2009, as illegal, arbitrary and unconstitutional.

The petitioner is aggrieved by the action of respondents in proposing to acquire land/super structures of H.No.4-1-990 to 998 at Abid Road, Hyderabad.

On 22.08.2008, Section 4(1) notification was issued proposing to acquire along with other properties the subject matter of the writ petition. On 29.09.2008, the petitioner submitted objections. The 1st respondent through proceedings No.AA/1065/08 dated 01.07.2009 rejected the objections raised by petitioner. The challenge to proceedings dated 01.07.2009 is that the enquiry conducted by 1st respondent does not satisfy the requirements of Section 5A of the Act. The petitioner was not given opportunity in the enquiry said to have been conducted either by 1st respondent or 2nd respondent. It is clear from proceedings dated 01.07.2009 that the respondents have not conducted enquiry or afforded opportunity to petitioner and such deviation in view of settled legal position by the Supreme Court under Section 5A of the Act is unsustainable. In other words,

no enquiry whatsoever was conducted. Be that as it may, the 2nd respondent issued notice under Sections 9(3) and 10 of the Act dated 26.08.2009 and the writ petition was filed on 22.09.2009. The Court granted interim stay for a period of eight weeks. On 06.10.2009, the interim order was modified as status quo and extended by two more weeks by this Court. On 14.12.2009, the status quo was extended by eight more weeks and thereafter, there is no order prohibiting the respondents from proceeding with the acquisition and completing the acquisition within time. But, on instructions, the Assistant Government Pleader submits that the Award has not been passed within two years from the date of draft declaration dated 22.08.2009. Section 11A reads as follows:

“11-A. Period within which an award shall be made. -The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.”

The failure to pass Award within two years, the acquisition is lapsed. Hence, this Court has no option except to give effect to the mandate of Section 11A.

From the above, it is clear that the petitioner has satisfactorily made out case both under Sections 5A and 11A of the Act and the acquisition proceedings impugned in the writ petition are hence held as illegal.

The writ petition is ordered. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT,J

Date:13.09.2017

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