

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.20516 OF 2006

ORDER:

The writ petition is filed questioning the proceedings dated 30.06.2006 and 08.09.2006 issued by the respondents under the provisions of the Land Acquisition Act, 1894 (for short, "the Act") proposing to acquire the land of the petitioners in Sy.No.39/3 and 41/1 of Gorintada Village, Palakollu Mandal, West Godavari District, as arbitrary and illegal.

It is the case of the petitioners that the land over an extent of Ac.1.50 cents situated in Sy.No.39/3 and 41/1 of Gorintada Village, Palakollu Mandal, West Godavari District, were sought to be acquired by issuing the impugned proceedings. It is a specific case of the petitioners that they have received the notice proposing to conduct Section 5 A enquiry on 25.07.2006 at Sub Collector Office, Narasapur and immediately on 25.07.2006, the petitioners submitted their objections along with three others who had purchased the land from the petitioners. However, no enquiry was conducted on that day. Thereafter petitioners sent another representation on 19.9.2006 to the 2nd respondent requesting him to furnish the copy of the enquiry report under Section 5A of the Act, if any. However, the same was not responded by the respondents. However, no opportunity was given to the petitioners as required under Section 5A of the Act. There is also no information with respect to any Section 6 declaration having been published.

This Court granted interim stay of the notification issued under Section 4(1) of the Act including the stay of dispossession.

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

Though this is a writ petition of the year 2006, no counter affidavit is filed contraverting the allegations made in the writ affidavit.

It is evident that no award is made in the writ petition nor compensation is paid to the petitioners. As it is well settled that the right conferred under Section 5A is a valuable right and violation of the mandatory requirement of providing opportunity would vitiate all further proceedings.

In the present facts of the case the allegation of the petitioner that they were not provided opportunity of hearing and in spite of their requesting for furnishing a copy of enquiry conducted under Section 5A of the Act, not being furnished, the proceedings gets vitiated and accordingly the writ petition is liable to be allowed as prayed for.

Accordingly, the writ petition is allowed setting aside the proceedings dated 30.06.2006 and 08.09.2006 issued by the respondents under the provisions of the Act. Miscellaneous Petitions, if any pending in this writ petition shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J

Date:09.08.2017.
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