

**HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

**WRIT PETITION No.1047 OF 2007**

**ORDER:**

The writ petition is filed questioning the action of the respondents in not conducting Section 5A enquiry properly under the Land Acquisition Act, 1894 (for short, "the Act") and set aside the enquiry report dated 12.12.2006 of the 2<sup>nd</sup> respondent under Section 5A of the Act.

The brief facts of the case, according to the petitioner are that the petitioner is a small farmer having small extent of land of Ac.1.09 cents of wet in Sy.Nos.431/9, 439-11, 431-11 at Santhavuriti P.O of Davalapet Village, Sigadam Mandal, Srikakulam District. Petitioner got the said property from her mother through the gift deed dated 3.3.1998. It is further stated that the husband of the petitioner is not looking after her family members and he is not giving any financial aid to the petitioner and to her children and that the petitioner is eking out her livelihood from the said property and after the acquisition, the petitioner shall be left with only Ac.0.56 cents of land. The entire land Ac.1.09 cents was mortgaged in Ponduru State Bank of India while taking the loan of Rs.20,000/- and the petitioner's land is proposed for acquisition basing on political considerations leaving large extents of lands of big farmers. Section 5A enquiry was conducted on 12.12.2006 without considering the representations of the petitioner.

Counter affidavit has been filed on behalf of the 2<sup>nd</sup> respondent-R.D.O stating *inter alia* that the Mandal Revenue Officer reported that the lands are adjacent to village site of

Dhavalapeta and fit for construction of houses, that there are no dry lands available in the village for acquisition and that as the petitioner's husband was in possession and the petitioner failed to produce any documents in support of the mortgage of the land, she was held as not a small farmer and her objections were rejected on 12.12.2006.

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition.

The writ petition came up for admission on 19.01.2007 and interim stay was granted on that day.

Admittedly, the petitioner is having an extent of Ac.1.09 cents of wet land in her possession. Out of this land, the respondents proposed to acquire the extent of Ac.0.53 cents in Sy.No.439-9. Even in Section 5A enquiry, petitioner participated and submitted the objections along with the documents that she is a small farmer and the said objections were over ruled by the respondents and Section 5A enquiry was concluded observing that out of Ac.1.09 cents of wet land, only an extent of Ac.0.53 cents was proposed to acquire and that the petitioner is still having an extent of Ac.0.56 cents of land. It is further stated that the petitioner has not produced any documentary evidence in support of her mortgage. It is stated that since the petitioner's husband is working in Military and as he is getting a monthly salary, the petitioner is not a small farmer. The petitioner has also raised an objection that the big lands of the rich persons are also available for acquisition, but the said objection was not discussed under Section 5A enquiry.

Having regard to the facts and circumstances of the case, the writ petition is allowed setting aside Section 5A enquiry report of the 2<sup>nd</sup> respondent in proceedings No.556/A, dated 12.12.2006. If the respondents still want to proceed with the acquisition, they are at liberty to do so by following the due process of law. No order as to costs. Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.

**KONGARA VIJAYA LAKSHMI,J**

Date:04.12.2017.  
Gk



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