

THE HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.21822 of 2008

ORDER:

The petitioners challenge notification dated 04.07.2008 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'), published in Surya Telugu daily paper, East Godavari District Edition in Ref.No.G2/2973/08, dated 30.06.2008 and consequential declaration under Section 6 of the Act published in Hindu daily dated 26.09.2008 in Ref.No. G.2/2973/2008 dated 24.09.2008 proposing to acquire an extent of Acs.6.50 in Sy.Nos.237, 238, 239 240/1 and 240/2 of Kondevaram Village, U.Kothapalli Mandal, East Godavari District as illegal, contrary to the mandate of the Act and unconstitutional.

The respondents initiated proceedings under the Act proposing to acquire land for providing house sites to identified beneficiaries of Kondevaram Village under a welfare scheme implemented by the 1st respondent.

Petitioners received notice of enquiry under Section 5-A of the Act on 05.07.2008 and detailed objections have been filed by them individually. The first and foremost objection of petitioners is that the land proposed for acquisition is double crop wet land and that the respondents are proposing to acquire private land without ascertaining the availability of Government land, its suitability etc., therefore, the acquisition of subject land is untenable.

I do not propose to re-state all the objections raised by petitioners before Land Acquisition Officer or the manner in which

it is considered by the 2nd respondent while rejecting the said objections, but, as the consideration of objections and rejection thereof except with minor changes has monotony of expression, the following instance is excerpted:

2. The proposed acquisition of above said Land of above individuals published for alleged house sites for weaker section is much less needed as such houses for weaker sections were already constructed and the said constructed houses are already in the possession of weaker sections. Every one in Kondevaram village is either owned a own house or a colony house and no one is there in the village without any house is a ground reality.	In Indiramma survey there is 398 beneficiaries were identified for providing house sites, all the beneficiaries were selected and approved by the Grama Sabha under the Chairman ship of Sarpanch, Kondevaram. If any ineligible beneficiaries found later they will be deleted from the list and eligible beneficiaries will be assigned. Hence, it is not correct to say that no one is there in the village without any house.
3. The proposed acquisition of land is now motivated by realtors and politicians to have the game of their own in rural politics by exploiting schemes of A.P.State.	The proposed acquisition is based on the survey of the Indiramma committee and approved by the Grama Sabha under the Chairman ship of Sarpanch, Kondevaram. There is no political influence in selection of land of the petitioners.

Learned counsel for the petitioners relies upon decisions of Apex Court in **Kothapalli Subrahmanya Sastry and others Vs. Government of Andhra Pradesh and others¹, Surinder Singh Brar and others Vs.Union of India and others² , Gurbinder Kaur Brar and another Vs. Union of India and others³ and Raghbir Singh Seharawat Vs. State of Haryana and others⁴** and contend that the consideration of objections is laconic, untenable and illegal, and the orders dated 14.09.2008 are liable to be set aside.

Having regard to the enactment by Parliament, Act No.30 of 2013, he raised further objection that award enquiry in the matter has not been taken up and no award is passed within the time stipulated by Section 11-A of the Act.

¹ (2010) 5 ALD 259
² (2013) 1 SCC 403
³ (2013) 11 SCC 228
⁴ (2012) 1 SCC 792

The objections now raised by the counsel for the petitioners are frequently considered by this Court with the change of legislation in the matter of acquisition of land by the State.

In the case on hand, after perusing the manner in which objections are considered and that no award is passed as on date and that there is change of procedure for acquiring the land under eminent domain, I am satisfied that the compensation on acquisition proceedings under old Act is not legal and constitutional. This Court is not expressing a view on the other legal objections raised by the counsel for petitioners, for matter of record and completion of the order, the objections are referred to. Counsel for petitioners contends that even assuming that the consideration by the District Collector is untenable and the matter has to be remitted back to 3rd respondent for consideration afresh, according to him, in view of the repeal and savings under Act of 30 of 2013, the respondents cannot and could not continue to fall back upon the limited procedure provided for under the repeal Act, but have to follow a procedure provided for hearing of objections from Sections 15 to 18 of Act 30 of 2013. For the view I have already taken, it is unnecessary to record a finding in this matter.

The writ petition is ordered by setting aside the order rejecting objections. No order as to costs.

Miscellaneous petitions, if any, pending in the writ petition shall stand closed.

S.V. BHATT, J

Date: 11.08.2017
KLP