

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.194 OF 2007

ORDER:

Heard Mr.Shekar for petitioner, the learned Assistant Government Pleader for respondents 1, 2 and 5 and Ms.Jayanthi for respondents 3 and 4.

The petitioner challenges notification Roc.No.G2/3807/06 dated 21.03.2006 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') and published in Eenadu Telugu Newspaper on 28.03.2006 proposing to acquire Ac.3-26 cents in Irugulam Village, Satyavedu Mandal, Chittoor District at the instance of respondents 3 and 4 for establishing a Special Economic Zone at Irugulam Village as illegal and arbitrary.

The dates relevant for disposing of the writ petition are stated thus:

On 21.03.2006, 4(1) notification was published in State Gazette No.164/2006, in newspaper on 28.03.2006 and publication in the locality on 24.04.2006. On 18.04.2007, the 2nd respondent approved the draft declaration, gazetted on 18.04.2007, published in newspaper on 25.04.2007 and publication in the locality on 17.05.2007. Admittedly, in the case on hand, the Award is not passed as on date. Counsel for petitioner challenges 4(1) notification firstly, by relying upon Section 6 of the Act and secondly Section 11-A of the Act. Sections 6 and 11-A read thus:

"6. Declaration that land is required for a public purpose. -
(1) Where the appropriate Government or the District Collector is satisfied that any particular land is needed for the purpose of construction, extension or improvement of

any dwelling house for the poor, a declaration shall be made to that effect under the signature of a Secretary to such Government or any other officer duly authorised to certify their orders or the District Collector as the case may be, and different declarations may be made, from time to time, in respect of different parcels of land covered by the same notification under Section 4, sub-section (1):

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid wholly or partly out of public revenues or some fund controlled or managed by a local authority.

[Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1)- (i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1957 (1 of 1957), but before the commencement of the Land Acquisition (Amendment) Act, 1984 shall be made after the expiry of one year from the date of the publication of the notification; or (ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984 shall be made after the expiry of one year from the date of the publication of notification:

Provided further that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.”

“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.”

According to him, the draft declaration is published beyond one year period stipulated under proviso to Section 6 and secondly even the dates relating to draft declaration permit argument or construction in favour of respondents, still the land acquisition proceedings questioned in this writ petition are lapsed on account of failure on the part of the respondents to pass an Award within two years from the date of publication of draft declaration. He relies on the following paragraph in the counter affidavit of 1st respondent with regard to the admitted position vis-à-vis non-passing of Award:

“At this stage one Sri Vijayasankara Reddy and Balasundaram Reddy have filed individual writ petitions in W.P.No.13310/2008 and 13637/2008 respectively, before this Hon'ble Court questioning the 19 Notifications out of 20 notifications of Irrugulam village, issued under section 4(1) of Land Acquisition Act. The Hon'ble Court has granted interim stay of all further proceedings in pursuance of the 19 impugned notifications in the above writ petitions in W.P.No.13310 of 2008 dated 25.6.2008 and W.P.No.13637/2008 dated 18.8.2008 respectively. In view of the interim Orders granted by this Hon'ble Court, these respondents could not proceed further. After filing counter affidavit, the Hon'ble High Court has dismissed the writ petition on 5.1.2012 and vacated the stay orders issued earlier. The said order has been received in this office on 11.2.2012. Subsequently one Sri K.Ramachandra Reddy s/o.Ramalinga Reddy and others of Irrugulam village have filed the writ petition in W.P.No.6042/2012 and requested the Hon'ble High Court to stay all further proceedings pursuant to the notification issued u/s.4(1) and 6 of L.A. Act vide notification in Roc.G2/3807/06 etc. dated 21.3.2006 and 18.4.2007 respectively. The Hon'ble High Court has granted stay orders on 6.3.2012 as prayed by the present writ petitioners which is received in this office on 20.3.2012.

The awards could not be passed due to stay orders of the Hon'ble High Court."

He further contends that as the acquisition, for the present, is governed by Act No.30 of 2013, the petitioner is entitled to benefits of Section 24 of the Act 30 of 2013 and thereby the acquisition proceedings impugned in the writ petition are abated or lapsed.

The Assistant Government Pleader reiterates the stand of respondents stated in counter affidavit and contends that the draft declaration is well within the time stipulated by Section 6 proviso (1) of the Act and therefore, no exception to Section 4(1) notification and Section 6 declaration can be taken, and for not passing the Award, he refers to the interim order granted by this Court on 04.01.2007. The interim order in the case on hand protected possession of the petitioner. Other proceedings are allowed to be taken up and completed. The 1st respondent admits that Award is not passed till date. Even at this length of time, no material is placed before the Court to discharge the burden. Having regard to these undisputed circumstances, the 4(1) notification impugned in the writ petition insofar as the petitioner is concerned, is declared as lapsed.

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

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date: 08.08.2017
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