

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.26676 of 2013

ORDER:

Heard learned counsel for the petitioners and learned Government Pleader for land acquisition.

2. The present Writ Petition came to be filed seeking issuance of writ of mandamus declaring the action of the second respondent in issuing declaration under Section 6 of the Land Acquisition Act, published in the vernacular newspaper on 30.07.2013, without any enquiry and considering the objections filed by the petitioners under Section 5-A of the Act dated 15.04.2013, as illegal and arbitrary.

3. A perusal of the averments in the affidavit filed in support of the writ petition would show that a notification under Section 4(1) of the Land Acquisition Act (for short, 'the Act of 1894') came to be issued in A.P.Gazette on 06.03.2013, conferring powers on the third respondent – Special Deputy Collector to acquire land annexed to the said notice issued under Form-2(A) including the lands of the petitioners. Pursuant thereto, the third respondent issued a notice under Section 5-A of the Act, on 18.03.2013 and served on the individuals at the addresses furnished by them. The enquiry was conducted on 15.04.2013. All the petitioners attended the enquiry, filed their objections towards acquisition of their lands in Jagannapeta and Venkataramannagudem Village. It is stated that inspite of pointing out the discrepancies in the notice published under Section 4(1) of the Act, no steps were taken by the respondents to rectify the same while issuing the impugned proceedings under Section 6 of the Act. It is stated that by virtue of provisions of the Act, no enquiry was conducted under Section 5-A of the Act. It is stated that in terms of

Section 5-A, any person interested in any land notified under Section 5-A(1) may within 30 days from the date of publication of the notification, submit objections in writing against proposed acquisition of land or any land in the locality to the Collector. Thereafter, the Collector is required to give the objector an opportunity of being heard either in person or in by any person authorized by him or by his pleader. After hearing the objections and making such further enquiry, as he may think necessary, the Collector shall make a report in respect of the land notified under Section 4(1) containing his recommendations on the objections and forward the same to the Government along with the records of the proceedings held by him. Since there was no response to the objections filed by the petitioners on 15.04.2013, the petitioners got issued legal notices on 27.06.2013 and 28.08.2013, to fix a date for hearing the objections. But there was no response from the respondents. However, the respondents issued the impugned declaration under Section 6 of the Act, which lead to filing of the writ petition.

4. Though various grounds are raised, learned counsel for the petitioners mainly submits that since no award is passed till date, determination of compensation can only be in accordance with the provisions under new Land Acquisition Act i.e., Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, Act 30 of 2013).

5. Admittedly, no award is passed till date. Infact an interim order of suspension of declaration under Section 6A was granted by this Court on 13.09.2013 on the ground that the procedure prescribed under Section 5-A of the Act of 1894 has not been complied with. Thereafter, an enquiry under Section 5-A was conducted but the matter did not proceed further. Further, no order is stayed thereafter, which is not disputed by the

learned counsel for the respondents. Section 24 (1) (a) of the Act 30 of 2013 prescribes that if the land acquisition proceedings were initiated under the Act and no award under Section 11-A of the Act of 1894 has been made, all the provisions of the Act 30 of 2013 shall apply for determination of compensation.

6. Before proceeding further, it would be appropriate to refer to Section 11-A of the Act of 1894.

“Section 11-A of the Act of 1894: 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 been published before the commencement of the Land Acquisition (Amendment) Act, 1894, the award shall be made within a period of two years from such commencement.

Explanation: In computing the period of two years referred to in this Section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a court, shall be excluded.

7. It is to be noted that this Court vide order dated 13.09.2013, granted interim suspension of the declaration made under Section 6A on the ground that the procedure prescribed under Section 5-A of the Land Acquisition Act, 1894 has not been complied with. Pursuant thereto, an enquiry under Section 5A is said to have been conducted on 08.02.2014. Thereafter, for the reasons best known, the respondents did not proceed further and no award is passed till date.

8. From the above, it is clear that no further steps have been taken up after 08.02.2014 and no award has been passed till date, though there was no bar in proceeding further with the matter. Therefore, the period

within which the award has to be passed, got expired. Hence the entire proceedings gets vitiated due to non-compliance of Section 11A of the Act of 1894, which was held to be mandatory.

9. Accordingly, the writ petition is allowed and the impugned proceedings initiated under the Act of 1894, are set aside, giving liberty to the respondents to initiate fresh proceedings for acquisition of the above mentioned land of the petitioners, if the land is still required, in accordance with the provisions of the Act 30 of 2013. There shall be no order as to costs.

10. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

11.04.2017  
vhb



JUSTICE C. PRAVEEN KUMAR