

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 286 of 2016

Order:

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

The petitioners are agriculturists having small extents of lands situated in different survey numbers at Duddukur village, Inkollu Mandal, Prakasam District. In the year 2006-07 Gundlakamma Reservoir Project was constructed across Gundlakamma River at Chinnamalavaram village, Maddipadu Mandal, Prakasam District. The Reservoir is meant for drinking as well as irrigation purpose. Duddukur village is situated on the northern side of the Left Bank Canal of the Project. While so, the seventh respondent gave a requisition to acquire the lands for formation of 18 TE Minor from KM 6.260 to KM 10.400 passing through the lands situated in Duddukur village. An extent of Ac.37.53 cents was proposed for acquisition. Initially, a notification was published under Section 4(1) of the Land Acquisition Act, 1894 on 11.03.2011 and, challenging the same, some ryots approached this Court by filing W.P.No.14317 of 2011. Another Writ Petition was also filed in W.P.No.22079 of 2011. Both the Writ Petitions were disposed of on 19.12.2012 with a direction to the respondents to consider the objections filed by the petitioners. In the meanwhile, Act 30 of 2013 came into force and, in the absence of any declaration under the provisions of the old Act, the acquisition proceedings under the Land Acquisition Act, 1894 stood lapsed. Another notification was issued under Section 11 of the Act 30 of 2013 on 11.08.2015 and the petitioners filed their objections to the said notification on 16.10.2015. However, without hearing the petitioners, but

calling for a report from the Special Deputy Collector, who submitted a report on 30.11.2015, when an order was passed by the fourth respondent on 06.12.2015, the present Writ Petition is filed.

This Court, by order dated 17.03.2016, granted interim stay of further proceedings and, as a result of which, the further proceedings could not be taken up. Seeking vacation of the said order, the Government filed W.V.M.P.No.2620 of 2016 and thus the Writ Petition itself is taken up for consideration.

The record revealed that Duddukur Branch Canal was originally conceived under KORGRP and approved by the Government vide G.O.Ms.No.163, Irrigation and CAD (Irrigation XI) Department, dated 27.10.2003. Socio Economic Survey was conducted and R&R benefits were extended to all the eligible beneficiaries as per G.O.Ms.No.68, Irrigation & CAD (Project Wing-LA-IV-R&R) Department, dated 08.04.2005. There was a dispute with regard to alignment and after disposal of the Writ Petitions by this Court on 19.12.2012 a Gram Sabha was conducted on 28.05.2015 in Duddukur village and on the basis of the consent expressed by the villagers and the officers, the alignment recommended by the Committee of Engineers was accepted, but the petitioners filed their objections and without affording an opportunity of personal hearing the fourth respondent passed an order on 06.12.2015.

Thus, the only point that remains for consideration is with regard to consideration of the objections after hearing the petitioners.

The Branch Canal which was conceived way back in 2003 is held up for one reason or the other and, in the circumstances, this Court set asides the impugned endorsement of the fourth respondent dated 06.12.2015 and the consequential declaration made under Section 19 of

the Act 30 of 2013 to the extent of petitioners and remands the matter to the fourth respondent for considering the objections filed by the petitioners on 06.11.2017 on which date the petitioners shall appear before him. The fourth respondent is directed to hear the petitioners with regard to objections already filed by them and after taking into consideration the earlier report of the Special Deputy Collector dated 30.11.2015 pass appropriate orders in accordance with law.

The Writ Petition is, accordingly, allowed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions pending in this Writ Petition, if any, shall stand closed.

Date: 11.10.2017
Nsr

A. RAMALINGESWARA RAO, J

