THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.21243 OF 2008

ORDER:

Heard Sri Madhava Rao Nalluri, learned counsel for the petitioners and learned Assistant Government Pleaders for Land Acquisition and Irrigation.

2. The petitioners claim to be owners of agricultural lands in Survey Nos.87/1B, 125, 129, 135/3B, 136/2A and 151/2 of Yedugundalpadu Village and Mandal, Prakasam District. The respondents issued 4 (1) Notification on 27.04.2008, proposing to acquire the subject matter of the writ petition for 'Minor Right Canal of Kandula Obula Reddy Gundlakamma Reservoir Project'. The petitioners in the present writ petition substantially challenge Section 4 (1) notification dispensing with enquiry under Section 5-A of the Land Acquisition Act, 1894 (for short, 'the Act') by invoking Section 17 (4) of the Act and thereafter, published draft declaration on 09.05.2008, as illegal, arbitrary and also unconstitutional.

3. On 26.09.2008, this Court granted interim stay of all further proceedings pursuant to Section 4 (1) notification, dated 27.04.2008.

4. Respondent No.3 filed counter affidavit and also petition to vacate the interim order, dated 26.09.2008.

5. The acquisition of subject land is at the instance of respondent No.4/Irrigation Department. The Assistant Government Pleader for Irrigation places on record letter No.EE/G.R.PDiv.No.2/OGL/RMC/1/41 M, dated 03.02.2017, which reads as follows:

> "Sub:- Formation of Right Earth Bund and closing of gorge portion by earth bund, excavation of Left and Right canals, construction of right head sluice of GRP including CM & CD Works and distributory system for an ayacut of 80,060 Acres on EPC turnkey system-Cancellation of old alignment of 16R Major of Right Main Canal of Gundlakamma Reservoir Project-Alternate alignment approved and executed-closing writ petition-Requesting-Regarding.
>
> Ref:-1) Agreement No.4VGP/2004-05 Dt:10-11-2004.
> 2) Writ Petition No.21243 of 2008.
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> *****
>
> The agency has proposed alignment and Hydraulic particulars of 16R Major of Right Main Canal of Gundlakamma Reservoir Project. During the land acquisition, the Edgundlapadu villagers have objected the survey stating that their lands are very valuable. The villagers has approached the Honourable High Court vide

writ petition No.21243 of 2008 and obtained the stay order to stop the work.

Accordingly, the department has cancelled the above alignment and instructed the agency to submit the alternative alignment to survive the same contemplated ayacut. The agency has submitted the alternative proposal and the same was approved by the department authorities in 2012 and the work was executed by the agency.

In this connection, it is requested to take necessary action and request the Honourable High Court to close the case.

Yours faithfully,
Sd/- xxxxx
Executive Engineer,
G.R.P. Division No.2,
Ongole."

From the above, it is clear that the change of alignment proposal given by EPC contractor is approved and consequently, the necessity to acquire the subject lands of petitioners for laying of "Kandula Obula Reddy Gundlakamma Reservoir Project" does not arise.

6. In view of above circumstances, the Land Acquisition proceedings initiated proposing to acquire the petitioners' land is declared as unnecessary and the writ petition is ordered accordingly.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE S.V. BHATT

SEPTEMBER 12, 2017
YVL

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.21243 OF 2008

Dt: 12.09.2017

YVL