

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.1461 of 2009

ORDER:

The petitioner prays for the following relief:

“...writ of *mandamus* declaring the notification ROC No.G2/ SW/ 11863/ 2008 dated 24.12.2008 (published in Andhra Jyoti daily, Telugu news paper dt. 31.12.2008) issued under Section 4(1) of the Land Acquisition Act (for short ‘the Act’) by the District Collector, West Godavari District, Eluru, for acquisition of the land admeasuring Ac.5.08 cents belonging to petitioner situated in Sy.No.426 of Rustumbada Village, Narsapur Mandal, West Godavari District, as illegal and arbitrary.”

2. The brief facts of the case are that the 2nd respondent issued notification dated 24.12.2008 proposing to acquire the lands of the petitioner for providing house sites to the weaker section under Indiramma scheme and the same was published in the news papers on 31.12.2008. The 3rd respondent issued notice dated 03.01.2009 to the petitioner asking him to appear before him for Section 5-A enquiry on 21.01.2009. In response to the notice, the petitioner appeared before the respondent authorities and filed his objections. It is stated that in the year 1957, the lands of the petitioner’s family situated in RS Nos.134/ 1B3 an extent of Ac.5.97 cents, 134/ 1A4 and 134/ 1A6 an extent of Ac.9.84 cents, 163/ 1A an extent of Ac.6.25 cents, RS No.175/ 3 an extent of Ac.1.56 cents were acquired by the Government for various purposes. Now once again the Government is proposing to acquire land of the petitioner by virtue of the impugned proceedings.

The 3rd respondent-Revenue Divisional Officer, Narsapur, filed counter-affidavit denying the contents of the writ petition. It is averred

that the land of the petitioner is very much suitable for acquisition for providing the house sites to the weaker section under 'Indiramma Programme'. It is also stated that previously the lands of the petitioner were acquired for the purpose of drinking water scheme and compensation was paid. Therefore, he prays for dismissal of the writ petition.

This court on 30.01.2009 admitted the writ petition and granted the following interim order:

"There shall be interim direction to the respondents not to dispossess the petitioners from the subject lands until further orders. However, this will not preclude the authorities from proceeding with the matter under Land Acquisition Act, as per law."

Learned counsel for the petitioner relied upon the decision in '*K.Ramulu vs. State of A.P.*',¹, wherein this court held that "the State in subjecting one particular person's property to repeated acquisitions is acting contrary to Article 14 of the Constitution. By resorting to such acquisitions, the State is imposing the social burdens of the Land Acquisition Act on selected individuals and is thereby violating the equality rule of Article 14".

Based on the written instructions dated 08.08.2017 of the Tahsildar, Narsapur, learned Government Pleader has submitted that till now the land acquisition process could not be carried out because of the court order and that the land is very much necessary as around 250 landless poor have to be provided housing under the government prestigious programme of rural housing.

¹ 1988(1) APLJ 494

A perusal of the record shows that Section 4(1) notification was issued on 24.12.2008 proposing to acquire land of the petitioner. Draft declaration under Section 6 of the Act was published in the news papers on 01.01.2010. As per Section 11-A of the Act, the Collector shall make an award 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.

Admittedly, the interim direction granted by this court did not preclude the authorities in proceeding further in the matter.

In view of the facts and circumstances stated above, as the award is not passed by the respondent authorities within the prescribed period of two years from the date of publication, the land acquisition proceedings are lapsed and the proceedings impugned in this writ petition are liable to be set aside and accordingly, set aside.

This writ petition is allowed. No order as to costs. Pending miscellaneous petitions if any in this writ petition shall stand dismissed in consequence.

KONGARA VIJAYA LAKSHMI, J

Date: 31.10.2017
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