

HON' BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.27086 of 2006

ORDER:

The petitioner prays for the following relief:

“...writ of *mandamus* declaring the action of the respondents in issuing the notification No.G3/ 1906/ 2006 dated 19.10.2006 for acquiring Ac.5.28 cents under Sy.Nos.420/ 1, 421, 438/ 1 & 438/ 3 respectively, situated in Kandriga village, H/o Avidi, Kothapeta Mandal, East Godavari District, as illegal and arbitrary and consequently to drop all further proceedings pursuant to the notification dated 19.10.2006.”

2. The brief facts of the case are that the petitioner is the absolute owner and possessor of the land admeasuring Ac.5.28 cents under Sy.Nos.420/ 1, 421, 438/ 1 & 438/ 3 respectively, situated in Kandriga village, H/o Avidi, Kothapeta Mandal, East Godavari District. While so on 19.10.2006, the 1st respondent issued notification under Section 4(1) of the Land Acquisition Act (for short 'the Act') for acquiring the property of the petitioner for the purpose of providing house sites for weaker sections under 'Indiramma Gruha Nirmana Pathakam'. It is stated that the lands under acquisition are admittedly agricultural lands and as such, they cannot be acquired without there being any conversion as non-agricultural land as contemplated under the A.P. Agricultural Land (Conversion for non-agricultural Purposes) Act, 2006.

A Counter-affidavit has been filed by the respondents. According to the counter-affidavit, notification under Section 4(1) of the Act was published and notice under Section 5-A of the Act was issued to the land

owners to appear on 04.12.2006 for enquiry under Section 5-A of the Act and to file objections, if any. The petitioner has not attended the enquiry.

This court on 29.12.2006 admitted the writ petition and granted the interim stay of all further proceedings dated 19.10.2006, including dispossession of the petitioner from their lawful possession.

Based on the written instructions dated 12.06.2017 of the Revenue Divisional Officer, Amalapuram, learned Government Pleader has submitted that the Tahsildar, Kothapeta has submitted a report on 12.06.2017 that the house site pattas were not issued in the land and the land is still recorded as Zeroyithi land in Village No.3 Adangal and the land is in possession of the petitioner. He further submitted that in view of the interim stay, no further action has been taken in the matter.

A perusal of the record shows that Section 4(1) notification was issued on 19.10.2006 proposing to acquire land of the petitioner. The respondents have not chosen to publish the draft declaration under Section 6 of the Act. The respondents also not passed any award. 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.

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.

Date: 31.10.2017
BSS

KONGARA VIJAYA LAKSHMI, J



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