

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 2303 of 2009

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in proposing to acquire the land of the petitioners admeasuring Ac.0.50 cents in Sy.No.157/1B Part of Guntupalli Village, Ibrahimpatnam Mandal, Krishna District, through notification dated 16.11.2008 issued under Section 4 (1) of the Land Acquisition Act, 1894 (for short "the Act"), as unjust, arbitrary, illegal and without jurisdiction; and consequently direct the respondents to forthwith drop all further action.

2) The averments in the affidavit filed in support of the writ petition show that the petitioners claim to be owners and possessors of the land referred to above. It is stated that in the year 1984, the respondents proposed to acquire the said land along with other lands for providing house sites to Backward Class people. The draft notification and draft declaration were approved and published. Aggrieved by the same, the petitioners filed W.P.No.12903 of 21984. By an order dated 06.03.1986 this Court quashed the said notification. In obedience to the said order, the respondents gave up the proposal of acquiring the land. After lapse of 25 years, the first respondent once again issued notification under Section 4 (1) of the Act proposing to acquire

the very same land. Aggrieved by the same, the present writ petition came to be filed.

3) A counter came to be filed by the respondents stating that this Court quashed the notification in respect of land to an extent of Ac.1.21 cents in R.S.No.157/ 1B of Guntupalli Village, Ibrahimpatnam Mandal, Krishna District, where as in the present notification, the government proposed to acquire land to an extent of Ac.2.14 cents not only in R.S.NO.157/ 1B but also in R.S.Nos.157/ 2 and 287/ 6. It is stated that in view of the changed circumstances, the proposed acquisition is inevitable, as there is no suitable alternative land available in the village. As per the revenue records the petitioners are not small farmers. It is urged that the government proposed to acquire the land of the petitioners only to an extent of Ac.0.50 cents and even after acquisition of the same, the petitioners are having Ac.7.45 cents in R.S.Nos.157/ 1B, 159/ 1B, 214/ 1A, 218/ 1 and 218/ 2 of Gunturpalli Village. It is also stated that the draft notification under Section 4 (1) of the Act was published on 02.12.2008. The petitioners filed their objections on 23.12.2008 but failed to participate in 5-A enquiry. Vide Rc.No.G4/ 4915/ 2008, the Collector passed orders rejecting the objections filed by the petitioners. It is urged that the land is quite suitable for construction of houses, to be allotted to the beneficiaries under Indiramma Housing Scheme Phase-III.

4) By an order, dated 09.02.2009, this Court, granted interim direction to the respondents not to dispossess the petitioners from the subject land, but however stated that other proceedings may go on.

5) The point that arises for consideration is whether the proceedings initiated under the provisions of the Land Acquisition act, 1894 gets lapsed since no declaration is passed till date.

6) A perusal of the material placed before the Court would show that the notification came to be issued on 16.11.2008 and the writ petition is filed on 09.02.2009. On 09.02.009, this Court directed the respondents not to dispossess the petitioners from the subject land, but however directed other proceedings to go on. Since Section 5-A enquiry was directed to be continued, declaration under Section 6 (1) of the Act shall be made within a period of one year from the date of declaration of Section 4 (1) notification. Though there is a specific direction to proceed further, the authorities failed to do so. As the authorities failed to comply with the requirement of law, the writ petition is allowed, quashing the notification dated 16.11.2008 issued under Section 4 (1) of the Act as declaration under section 6 (1) of the Act is not made within one year. However, it will not preclude the respondents initiating fresh action in accordance with the provisions of the New Act, if they still intend to acquire the land. There shall be no order as to costs.

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

JUSTICE C. PRAVEEN KUMAR

23.02.2017
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