

HON'BLE SRI JUSTICE S. V. BHATT

Writ Petition No.28692 of 2008

ORDER:

Heard Mr. B. Somasekhar for petitioner and the learned Assistant Government Pleader (Land Acquisition) for respondents.

2. The petitioner raises by way of pleading objection against non-consideration of objection in Section 5-A enquiry conducted in this behalf and issuing proceedings in Roc No.G2/312/2006 dated 17.12.2008, as illegal and unconstitutional. The petitioner, having regard to limited extent to which interim order was granted on 29.12.2008, and by taking note of admitted circumstances in the counter-affidavit raises a legal objection against continuation of land acquisition proceedings as contrary to Section 6 (proviso) of the Land Acquisition Act (for short 'the Act'). The non publication of Draft Declaration within one year from Section 4(1) notification resulted in lapsing of land acquisition proceedings impugned in the writ petition.

3. The circumstances relevant for disposing of the rit petition are as follows:

The 2nd respondent issued Section 4(1) notification dated 09.02.2007 proposing to acquire Ac.1.50 cents in Sy.Nos.306/3A, 306/9 and 306/14 of Taderu Village, Bhimavaram Mandal, West Godavari District, for providing house sites to weaker section of society under a welfare scheme implemented by the State. At the first instance, petitioner challenged the decision of respondents dispensing with Section 5-A enquiry in WP No.4506 of 2007 and this court vide order dated 04.02.2008 set aside the order of dispensing with Section 5A enquiry and directed for conducting enquiry under Section 5-A of the

Act. The respondents issued notice of enquiry under Section 5-A, petitioner filed objections and 2nd respondent through proceedings dated 17.12.2008 rejected the objections. The petitioner, in the instant writ petition, challenges the mode and manner in which the enquiry is conducted as well as rejection of objections by 2nd respondent.

4. The law on the scope and requirements of fair enquiry under Section 5-A, is no more *res integra*. In addition to above ground, this court finds it appropriate to take up legal objection raised by counsel for petitioner on the continuance of land acquisition proceedings. According to petitioner, the Draft Declaration should have been published within one year from 09.02.2007. Even assuming that the proceedings were stayed by this court in WP No.4506 of 2007, still after objections are considered and rejected, the draft declaration should have been published within 12 months of Section 4(1) notification. This court has not stayed the land acquisition proceedings as such. The stay was limited to the extent of dispossession of petitioner from land under acquisition and also permitted respondents to proceed with other proceedings required in this behalf.

5. The respondents either by choice or on account of inadvertent omission could not publish draft declaration. At this length of time, they cannot be allowed to proceed with draft declaration. The consideration of the above dates and the effect of interim order granted by this court clearly go to show that failure to publish draft declaration within the time stipulated by Section 6 results in lapsing of land acquisition proceedings. Hence, the proceedings impugned in the writ petition together with Section 4(1) notification are set aside.

6. The writ petition is ordered as indicated above. No order as to costs. Pending miscellaneous petitions if any in this writ petition shall stand dismissed in consequence.

S.V.BHATT, J

Date: 16.08.2017
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