

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.26450 OF 2006

ORDER:

This Writ Petition is filed seeking the following relief:

“....to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the acquisition of lands of the petitioner of an extent of Ac.1-00 cents in Sy.No.213/2, situated in Rajavaram village, Rowthulapudi Mandal, East Godavari District pursuant to the Notification issued U/sec.4(1) of the Land Acquisition Act, vide proceedings of the 1st respondent bearing Ref:G2/2269/06, dated 23.05.2006 and proceedings of the 2nd respondent vide Ref: G2/2269/06, dated 2.11.2006 purported to have been issued under section 5-A of the Land Acquisition Act, as illegal, arbitrary and without jurisdiction and consequently direct the respondents to drop all further proceedings against the petitioner's land in this regard and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

It is the case of the petitioner that Section 4(1) Notification was issued without following due process by invoking Section 17(4) of the Land Acquisition Act, 1894 (in short “the Act”), urgency clause. However, petitioner at that stage approached this court and filed a Writ Petition No.15528 of 2006, which came to be disposed of by an order dated 27.07.2006, directing the respondents to conduct enquiry under Section 5-A of the Act and pending conducting of Section 5-A enquiry and sending recommendations to the Collector for Section 6 Declaration, stay of dispossession was also granted. Thereafter, on 28.11.2006 the proposals for Draft Declaration under Section 6 of the Act were submitted to the District Collector for approval and the same has been approved on 30.12.2006, and also the same was published, as required, in Gazette and in local newspapers. At that stage

petitioner has approached this Court by filing the present writ petition.

It is the contention of the learned counsel for the petitioner that hearing under Section 5-A of the Act has to be conducted by the 1st respondent-District Collector and not by the 2nd respondent-Joint Collector.

Though a counter affidavit has been filed, the crucial contention raised by the petitioner that the Collector is the competent authority to conduct enquiry under Section 5-A of the Act and making a declaration is not denied. In the circumstances, the declaration made under Section 6 of the Act is vitiated. Inasmuch as, once the Section 6 Declaration is vitiated and considering the fact only stay of dispossession was granted pending disposal of the Award, no Award also can be made under Section 11-A of the Act, particularly, in view of the repeal of the Land Acquisition Act, 1894. Further, in the instructions submitted by the 3rd respondent-Revenue Divisional Officer, Peddapuram, it was stated that number of beneficiaries have been increased and the land acquisition which was initiated 10 years back may not serve the purpose, for which the land acquisition was initiated i.e., for providing house sites to the weaker sections and in that view of the matter the RDO had instructed to acquire the land in future, if it is needed.

The instructions made it clear that at this point of time the respondents are not keen to proceed with the land acquisition proceedings. In the circumstances, as the Section 6 declaration has been set aside, Section 4(1) Notification also has been quashed as no Award has been made under Section 11-A of the Act as required within two years from the date of Section 6 declaration. However, it is made clear, in the event in future if the land is

required by them for any public purpose, respondents shall be at liberty to initiate appropriate proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Accordingly, the Writ Petition is allowed. There shall be no order as to costs.

Consequently, the Miscellaneous Petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM, J

Date:05.06.2017.

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