

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.18562 OF 2005

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to issue a writ of *mandamus* to declare the action of respondent No.2 in issuing notification *vide* R.C.G.No.2.3987/97, dated 28.07.2005, as illegal, arbitrary and against the procedure contemplated under the Land Acquisition Act, 1894 (for short, “the Act”) and consequently, set aside the same.

2. It is stated in the affidavit filed in support of the writ petition that the petitioners herein are residents of Gudikal Village, Kurnool District and they are small farmers. Their source of livelihood is agriculture and they have no other lands except the subject lands. Respondent No.2 issued proceedings No.3328/1997, dated 08.09.1997, and published the same in the local daily newspaper on 28.09.1997. In the said notification, an extent of Ac.1.75 cents in Survey No.335 A3 of Gudikal Village, Kurnool District belongs to petitioner No.1 and Ac.1.22 cents in Survey No.330/A belongs to petitioner No.2 and they were proposed to be acquired for public purpose i.e., for construction of summer storage water tank at Yemmiganur. Questioning the action of respondent No.2 in dispensing with the enquiry under Section 5(A) of the Act, W.P.No.22969 of 1998 was filed before this Court and the same was disposed of on 30.12.2004 directing the respondents therein to hold an enquiry after receiving the objections from the petitioners/affected parties as per the

procedure contemplated under Section 5(A) of the Act. Thereafter, the petitioners filed written objections on 28.02.2005 in response to the notice, dated 07.02.2005, issued by respondent No.3 duly enclosing relevant material along with alternative proposals submitted by the Superintending Engineer, Public Health, Ananthapur seeking to drop further proceedings. Later, the petitioners came to know that the Government has appointed one K.Manmadha Rao, Superintending Engineer, Public Health, Ananthapur to study the feasibility of alternative proposals of water supply to Yemmiganur through any other existing tank. In his report, dated 02.05.2005, the Superintending Engineer strongly recommended to strengthen and improve the capacity of existing Gudikal water tank instead of constructing a new summer storage tank at the proposed site by avoiding the present land acquisition. While so, respondent No.2 issued the impugned notification, dated 28.07.2005, authorising respondent No.3 to take possession of the subject lands after expiry of 15 days from the date of the said notification. Hence, they filed the present writ petition.

3. When the matter is taken up for hearing, it is informed by the learned Government Pleader for Land Acquisition (A.P.) appearing for the respondents that as per the provisions of the Land Acquisition Act, the compensation amount was not deposited with the civil Court, but it was deposited with the Revenue Department.

4. In view of the latest amendment to the Land Acquisition Act, 1894 ie., Right to Fair Compensation and Transparency in Land

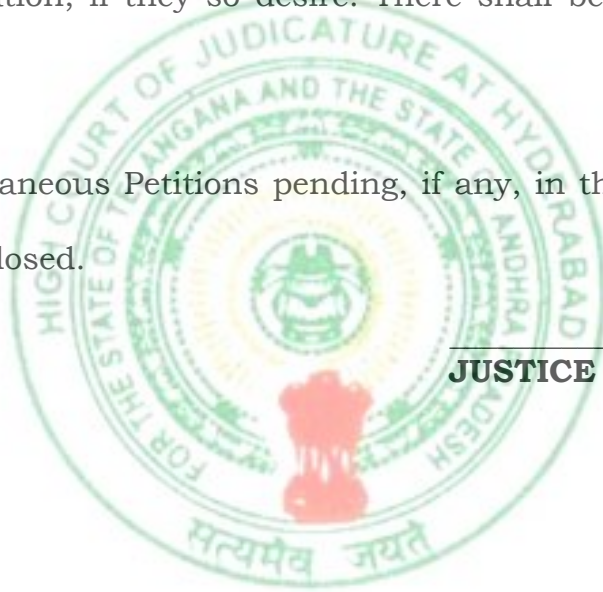
Acquisition, Rehabilitation and Resettlement Act, 2013, more particularly, Section 24(2) thereof, proceedings No.3328/1997, dated 08.09.1997, of respondent No.2 itself are lapsed and the said notification is liable to be set aside. Therefore, this Court is not inclined to go into the merits of the case.

5. Accordingly, the Writ Petition is allowed setting aside both the notifications, dated 08.09.1997 and 28.07.2005, of respondent No.2. However, the respondents are at liberty to proceed in accordance with the provisions of the new Act by way of issuing a fresh notification, if they so desire. There shall be no order as to costs.

6. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

04.04.2017
AMD

JUSTICE RAJA ELANGO



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Date: 04.04.2017

AMD