

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.1056 OF 2007

ORDER:

The writ petition is filed questioning the action of the respondents in not conducting Section 5A enquiry properly under the Land Acquisition Act, 1894 (for short, "the Act") and set aside the enquiry report dated 12.12.2006 of the 2nd respondent under Section 5A of the Act.

The brief facts of the case, according to the petitioners are that the petitioners are small farmers having small extent of land i.e. Ac.2.11 cents of wet and dry land and Ac.0.29 cents of dry land in Sy.No.10/18 at Mettavalasa Village. The first petitioner is having two sons and two daughters and that his undivided share comes to less than Ac.0.80 cents and that he is eking out his lively hood from the income derived from the said land. The second petitioner is having a total extent of Ac.2.96 cents and that he is having three sons and two daughters and that he does not have any source of income except the income from the said lands and when the respondents proceeded with the acquisition without conducting Section 5A enquiry, petitioners filed Writ Petition No.10588 of 2006 before this Court and the said writ petition was disposed of, directing the respondents to conduct Section 5A enquiry and accordingly Section 5A enquiry was conducted and a copy of the enquiry report was served on the petitioners on 12.12.2006. It is further stated that under the influence of the politicians, the lands of the petitioners are being acquired and that there are alternative lands of Ac.0.60 cents and

Ac.5.00 cents of Gramakantam land as well as the big farmers lands are available.

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition.

The writ petition came up for admission on 19.01.2007 and interim stay of all further proceedings including dispossession was granted on that day. No counter affidavit is filed on behalf of the respondents.

As seen from the enquiry report, it is stated that even though the petitioners are holding an extent of Ac.1.22 cents and Ac.2.08 cents, the enquiry report shows that the petitioners are rich persons and financially sound without any basis. With regard to the objection of the petitioners that the alternative lands are available, no finding whatsoever has been given and even though the petitioners are small farmers, their lands were sought to be acquired by the respondents without properly considering their objections.

In view of the facts and circumstances of the case, the writ petition is allowed setting aside Section 5A enquiry report of the 2nd respondent in proceedings No.609/A, dated 12.12.2006. If the respondents still want to proceed with the acquisition, they are at liberty to do so by following the due process of law. No order as to costs. Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.

KONGARA VIJAYA LAKSHMI,J

Date:04.12.2017.
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