

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.26081 OF 2006

ORDER:

Notification issued under section 4(1) of the Land Acquisition Act, 1894 (in short "Act 1894"), dated 29.10.2006 and simultaneous publication of Section 6 Draft Declaration, dated 29.10.2006 are challenged before this Court.

2. Apart from many other grounds raised in the writ petition the principal ground, on which the challenge is based on, is that while the respondents issuing land acquisition proceedings under Section 4(1) of the Act 1894, by invoking the provisions of Section 17(4) of the Act 1894, had simultaneously issued Section 6 Draft Declaration. This aspect of the matter is not in dispute as is evident from the publication in the District Gazette, dated 02.11.2006 of Section 4(1) Notification and District Gazette, dated 04.11.2006 of Section 6 Draft Declaration. It may be noted that both Section 4(1) Notification and Section 6 Draft Declaration were made by the District Collector on the same day. Interpreting the provisions of Section 4(1) and Section 6 read with Section 17(4) of the Act 1894, particularly the language in Section 17(4) of the Act 1894, wherein the words "after causing public notice" under Section 4 (1) of the Act 1894, this Court had held that simultaneous issuance of Section 4(1) Notification and Section 6 Draft Declaration would get vitiated.

3. In the case on hand, simultaneously Section 4(1) Notification and Section 6 Draft Declaration were issued on 29.10.2006, which are liable to be declared as void. Further, on account of the fact, the Act 1894 stands repealed and the limited scope of Section

24(1)(a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short “Act 2013”), wherein the land acquisition cases are saved, where only determination of compensation remains to be done. In the present case, the land acquisition proceedings would not survive. It may be noted that in the present case Section 6 Draft Declaration is liable to be quashed, resulting in Section 5-A enquiry that is required to be conducted, which could not be done at this stage. In the circumstances, the land acquisition proceedings issued under Section 4(1) of the Act 1894 is liable to be quashed.

4. Accordingly, the Writ Petition is allowed quashing the land acquisition proceedings under Section 4(1) of the Act 1894. However, liberty is given to the respondent authorities to initiate land acquisition proceedings, if the land is required for any public purpose, in terms of the provisions of the Act, 2013.

5. Consequently, the Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J

Date:19.07.2017.

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