

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.10213 OF 2008

ORDER:

Heard Mr.S.V.Muni Reddy for petitioners and the learned Assistant Government Pleader (Land Acquisition) for respondents 1, 2 and 4.

The petitioners challenge notification Roc.No.G2/3701/06 dated 18.03.2006 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') and published in Eenadu and Andhra Prabha Telugu Newspapers on 25.03.2006 proposing to acquire an extent of Acs.24-91 cents in Kolladam Village, Satyavedu Mandal, Chittoor District at the instance of 3rd respondent for establishing an Industrial Park (Special Economic Zone) at Kolladam Village, as illegal and arbitrary.

On 18.03.2006, 4(1) notification was published in State Gazette No.104/2006, in newspapers on 25.03.2006 and publication in the locality was made on 24.04.2006. Admittedly, in the case on hand, the Award is not passed as on date. Counsel for petitioners challenges 4(1) notification by relying upon Sections 6 and 11-A of the Act. Sections 6 and 11-A read thus:

"6. Declaration that land is required for a public purpose. - (1)
Where the appropriate Government or the District Collector is satisfied that any particular land is needed for the purpose of construction, extension or improvement of any dwelling house for the poor, a declaration shall be made to that effect under the signature of a Secretary to such Government or any other officer duly authorised to certify their orders or the District Collector as the case may be, and different declarations may be made, from time to time, in respect of different parcels of

land covered by the same notification under Section 4, sub-section (1):

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid wholly or partly out of public revenues or some fund controlled or managed by a local authority.

[Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1)- (i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1957 (1 of 1957), but before the commencement of the Land Acquisition (Amendment) Act, 1984 shall be made after the expiry of one year from the date of the publication of the notification; or (ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984 shall be made after the expiry of one year from the date of the publication of notification:

Provided further that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.”

“11-A. Period within which an award shall be made. -The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.”

He contends that as the acquisition, for the present, is governed by Act No.30 of 2013, the petitioners are entitled to benefits of Section 24 of the Act 30 of 2013 and thereby the acquisition proceedings impugned in the writ petition are lapsed.

The Assistant Government Pleader reiterates the stand of respondents stated in the counter affidavit and contends that no

exception to Section 4(1) notification can be taken, and for not passing the Award, he refers to the interim order granted by this Court on 02.05.2008 and submits that the acquisition proceedings are legal and tenable. The interim order in the case on hand protected possession of the petitioners. Other proceedings were allowed to be taken up and completed. The 1st respondent admits that Award is not passed till date. Even at this length of time, no material is placed before the Court to discharge the burden of undertaking other steps in accordance with law and completing the same. Having regard to these undisputed circumstances, Section 4(1) notification impugned in the writ petition, insofar as the petitioners, is liable to be declared as lapsed and accordingly declared as lapsed.

The writ petition is ordered accordingly. No order as to costs. There shall no order as to costs.

Consequently, pending miscellaneous petitions, if any, stand closed.

08th August, 2017
Lrkm

S.V.BHATT, J