

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.6431 OF 2007

Date 05.12.2017

Between:

Chilaka Sridhar.

... Petitioner

AND

The State of A.P. rep. by its Principal Secretary (Land Acquisition), A.P. Secretariat, Hyderabad and others.

.....Respondents



HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**WRIT PETITION No.6431 of 2007****ORDER:**

The action of the respondents, in rejecting the objections of the petitioner vide proceedings dated 12.01.2007, is questioned in the Writ Petition as being illegal and arbitrary.

Facts, to the extent relevant for the purpose of disposal of the writ petition, are that petitioner is the absolute owner of land admeasuring Ac.1.00 in Sy.No.327/5 situated in Kunchanapalli Village, Tadepalligudem Mandal, West Godavari District; notification, under Section 4(1) of the Land Acquisition Act, 1894 (the Act), was issued on 27.06.2006; respondent No.4 issued notices and conducted enquiry under Section 5A of the Act; and, as the petitioner was out of station, his mother attended enquiry and submitted objections. The grievance of the petitioner is that enquiry was not conducted by respondent No.4, and the supervisor, in the office of respondent No.4, asked some questions and stated that the enquiry was over; and the impugned proceedings has been passed rejecting the objections of the petitioner. Hence the writ petition.

Counter affidavit has been filed by respondent No.3 stating that the Revenue Divisional Officer has conducted enquiry.

While admitting the writ petition on 30.03.2007, this Court suspended the impugned proceedings.

Learned counsel for the petitioner mainly contended that, even though the petitioner raised a specific plea in the writ affidavit that the Supervisor in the office of respondent No.4 asked some questions and stated that enquiry was over, counter affidavit is silent on the said aspect and, merely, stated that the Revenue Divisional Officer conducted enquiry. He relied on **Chilakur Rajagopala Reddy v. District Collector, Nellore**¹.

In **Chilakur Rajagopala Reddy**¹, this Court held as under:

From the above mentioned pronouncements of the Hon'ble apex Court, it would succinctly evident that the right created under Section 5-A of the Act 1894 to an objector of the acquisition is not an empty formality and on the other hand it is the substantial and valuable right which is akin to fundamental and human right having regard to Article 300-A of the Constitution of India. This right is the only right created to the citizens to put forward their difficulties and grievances during the course of enquiry. Therefore, any failure on the part of the authorities in considering the objections in true letter and spirit of the provisions of law would undoubtedly render the consequential proceedings null and void and unsustainable in the eye of law. There is absolutely no evidence on record to show that the respondent authorities objectively considered the objections and adopted a pragmatic approach towards the issue. For the pleading of the petitioners that despite the legal notice got issued by them, requesting the authorities to furnish the material included in the report on 5-A enquiry, no plausible explanation is forthcoming from the respondents. Therefore, the non-adherence and failure to comply with the mandatory provisions of section 5-A of the Act 1894 and the Rules framed there under in the enactment for holding enquiry under Section 5-A are Writ large.

Learned Government Pleader for Land Acquisition placed reliance on the order of this Court, in W.P.No.2060 of 2007 dated 01.09.2007, and submits that the notification in

¹ 2015 (4) ALT 351

the said writ petition, and the instant writ petition, is one and the same.

This Court, while disposing of W.P.No.2060 of 2007, held as under:

“I have perused the material on record and prima facie I am satisfied that the consideration and disposal of objections through proceedings dated 12.01.2007 does not satisfy the requirement of Section 5-A and also the Rules made in this behalf and the order of this Court in W.P.No.14462 of 2006 dated 14.07.2006. On this short ground, the proceeding dated 12.01.2007 is set aside. The respondents, if intend to continue with the land acquisition proceedings, are given liberty to follow the procedure prescribed under Chapter-IV of Act 30 of 2013 and proceed with the acquisition. The petitioners are also given liberty to raise all objections as and when further notice in continuation of 4(1) notification dated 27.06.2006 is received by them.”

Since notification in this writ petition and W.P.No.2060 of 2007 is one and the same, both the counsel for petitioner and Government Pleader for Land Acquisition agreed for disposal of this writ petition in terms of the order in W.P.No.2060 of 2007 dated 01.09.2007.

As the objections of the petitioner were not properly considered by respondent No.3, and do not satisfy the requirement of Section 5-A and the Rules made thereunder, the impugned proceedings dated 12.01.2007, including draft declaration, if any, are set aside; and, if the respondents intend to continue with the land acquisition proceedings, they are given liberty to do so in accordance with law.

The Writ Petition is, accordingly, allowed. No order as to costs.

As a sequel, miscellaneous petitions pending, if any,
shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Dt:05.12.2017
usd

