

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.4721 of 2008

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for land acquisition.

The present Writ Petition came to be filed seeking issuance of writ of Mandamus declaring the action of the respondents in taking steps to dispossess the petitioner from the land admeasuring Ac.0.47 cents in R.S.No.296/ 3 of Kadampadu Village, H/ o.P.Vemavaram of Peravali Mandal, West Godavari District, pursuant to the notice under Form 6, dated 16.02.2008, as illegal and arbitrary.

The facts which lead to filing of the present writ petition are that the petitioner is the owner and possessor of the above mentioned land obtained by way of settlement deed No.1705, dated 31.10.1954 and the revenue authorities have recognized his title over the said land. It is stated that the petitioner received notice under Form 6, dated 16.02.2008 issued by the second respondent directing him to appear in person on 10.03.2008 for fixation of compensation for land proposed to be acquired. Subsequently, the petitioner approached the second respondent on 28.02.2008, informing him that he has not received any notice regarding acquisition of land and also not received any notice under Section 5A of the Act. It is averred that the respondents issued notice under Form 6 without prior notice to the petitioner and hence the present writ petition came to be filed.

On 07.03.2008, this Court while issuing notices directed the respondents not to dispossess the petitioner from the land in question for a period of ten days. Thereafter, the said interim order was not extended.

Later, vacate stay petition and counter came to be filed by the respondents disputing the averments made in the writ petition.

The point that arise for consideration is whether the proceedings initiated under the provisions of Land Acquisition Act (for short, the Act of 1894) gets lapsed since no possession is taken till date.

A perusal of the material placed before the Court would show that the notification came to be issued and the petitioner is said to have received notice under Form-6 of the Act of 1894 on 16.02.2008, directing him to appear in person on 10.03.2008. The petitioner approached the second respondent on 28.02.2008 and informed him that he had no knowledge about the proceedings being initiated and that he has not received any notice under Section 5A of the Act. The averments in paragraph No.6 of the counter affidavit would show that the draft notification was approved and published invoking urgency clause under Section 17 of the Act, dispensing 5A enquiry.

In the instant case, Section 4(1) notification was on 16.02.2008 and the writ petition was filed on 04.03.2008. The interim order granted on 07.03.2008 staying the dispossession was for ten days only, which was not extended subsequently. As seen from the record, though there was no extension of interim order, the authorities failed to proceed with the award enquiry and take possession of the land. Section 11 A of the Land Acquisition Act, 1894 prescribe that an award has to be passed within a period of two years from the date of 4(1) notification.

From the above, it is clear that the authorities have not complied with the mandate of Section 11 A of the Act, which violates the acquisition proceedings. Hence the writ petition is allowed, quashing the notification dated 16.02.2008 issued under Section 4(1) of the Act. However, it will

not preclude the respondents from taking a decision and acquiring suitable land in case they intend to. There shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed in the light of this final order.

JUSTICE C. PRAVEEN KUMAR

31.01.2017
vhb

