

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No. 2930 of 2007

ORDER:

This writ petition is filed to declare the Notification No.76/ 07/ 02, dated 12.01.2007 issued by the 1st respondent under Sec.4(1) of the Land Acquisition Act (for short, the Act'), notifying the intention to acquire the agricultural lands of the petitioners, admeasuring 22 cents and 50 cents belonging to the 1st petitioner, and an extent of Ac.2.00 cts., belonging to the 2nd petitioner in Sy.No.573/ 1 of Alluru village, P.V.Palem Mandal, Guntur district for the purpose of providing residential house sites to the weaker sections, as illegal, arbitrary and contrary to the provisions of the Andhra Pradesh Agricultural Land (Conversion for non-agricultural purpose) Act, 2006.

2. The facts of the case, according to the petitioners, are that the proposed lands are wet land and they are raising agricultural crops in the said lands twice per year. Further, earlier the Government proposed to acquire the land situated in Sy.No.577/ 1 of the village, which is adjacent to the main road i.e., State-highway, but the same was dropped, with the influence of the political leaders, and now the lands of poor agriculturists are proposed for acquisition. It is also contended that the mandatory notices are not served on the petitioners, and Sec.5 enquiry was dispensed with. It is also submitted that the respondents-authorities ought to have conducted enquiry, as there is no urgency to acquire the lands of the petitioners.

3. The Respondents Nos.1 and 2 have filed their counter affidavit stating that notices under Sec.5A of the Act were issued on 07.02.2007 calling for the objections, if any, from the interested persons and to appear before the Land Acquisition Officer on 27.02.2007 to adduce any evidence in support of their claims. The said notices were also got published in the locality, and they were got affixed on the doors of residential houses of the interested persons, including the petitioners. But, the petitioners have not availed the said opportunity to file objections, and failed to attend the 5-A enquiry, and instead filed the present writ petition.

4. The writ petition was admitted on 15.02.2007 and interim stay was granted. Thereafter, on 23.06.2011, the learned counsel for the petitioners was permitted to take out personal notice to the Respondent No.3 by registered post with acknowledgment due and file proof of service, within a period of two weeks therefrom, and in default, it is stated that the writ petition shall stand dismissed as against the 3rd respondent, without further reference to the Court. Accordingly, as the proof of service was not filed by the petitioners, the said default order was given effect and the writ petition was dismissed against the 3rd respondent.

5. Heard the learned Government Pleader for Land Acquisition and considered the material on record.

6. The learned Government Pleader submitted the latest written instructions of the 1st respondent, dated 29.11.2017,

wherein it is stated that the above said lands were recommended for the purpose of providing house sites to the weaker sections.

7. A perusal of the latest instructions submitted by the 1st respondent shows that out of the proposed lands for acquisition, the 1st petitioner is holding an extent of Ac.0.72 cents in Sy.Nos.573-5 and 573-3B and the 2nd petitioner holds an extent of Ac.2.00 situated in Sy.No.573-5.

8. After a careful consideration of the pleadings of both sides, I am of the opinion that as the petitioners are small farmers, their agricultural lands cannot be acquired unless they form part of contiguous piece of land. Therefore, the impugned notification proposing the acquisition of the petitioners' lands is liable to be set aside.

9. In view of the above facts and circumstances of the case, the impugned Notification issued under Sec.4(1) of the Act by the respondents, proposing to acquire the lands of the petitioners is set aside. However, if the respondents still need to acquire the lands of the petitioners, they are at liberty to proceed in accordance with Act 30 of 2013.

10. The writ petition is accordingly allowed. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

KONGARA VIJAYA LAKSHMI, J

Date: 08.12.2017
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