

HON' BLE SRI JUSTICE S.V. BHATT

Writ Petition No.4768 of 2009

ORDER:

Heard Mr. D. Bhaskar Reddy for petitioner and the Assistant Government Pleader (Land Acquisition) for respondents.

2. The petitioner challenges Notification issued by respondents under Section 4(1) of the Land acquisition Act, 1894 (for short 'the Act'), dated 28.02.2009 proposing to acquire the land of petitioner in an extent of Ac.1.32 cents in Sy.No.475 at Lakkora Village, Vailpoor Mandal, Nizamabad District, as illegal, arbitrary and contrary to law.

3. The respondents invoked the power under Section 17(4) of the Act and published the draft notification and draft declaration in Gazette No.42 dated 27.02.2009. Admittedly, as on date, the award is not passed. Now the petitioner contends that on account of not passing the award within two years from the date of draft declaration, under Section 11-A of the Act, the acquisition proceedings are lapsed.

4. On 06.03.2009, the writ petition was filed. This court granted stay of dispossession and allowed the respondents to proceed with other proceedings. From the above, it is clear that there was no restriction for the respondents in taking up and concluding the land acquisition proceedings within the time schedule stipulated by Section 11-A of the Act.

5. Learned Assistant Government Pleader, places on record the written instructions dated 21.08.2017 in Lr.No.B2/ 6012/ 2008 of 3rd respondent, wherein, it is stated that Sy.No.475 covering an extent of Ac.1.32 guntas was taken over for providing house sites under a welfare scheme, which is not implemented by the State Government. The Assistant Government Pleader, opposed the writ prayer by contending that the writ petition is filed on mere

apprehension and that the petitioner cannot take advantage of the interim order he has obtained in the writ petition and the authorities are under *bona fide* impression that the interim order prevents the authorities from proceeding in any manner in the subject acquisition and therefore further steps were not taken. He fairly submits that according to the stand taken in the counter-affidavit the land acquisition proceedings are held back at the stage of enquiry and no further steps were taken.

6. I have perused the material on record, taken note of submission of counsel for parties and having regard to the language of Section 6 of the Act and also limited interim direction granted by this court, the respondents cannot now seek for continuation of land acquisition proceedings. The land acquisition proceedings are lapsed.

7. The writ petition is ordered and the impugned Section 4(1) Notification dated 28.02.2009 issued by 1st respondent, is set aside. No order as to costs. Pending miscellaneous petitions if any in this writ petition shall stand dismissed in consequence.

Date: 22.08.2017
BSS

S.V.BHATT, J

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