

HON'BLE SRI JUSTICE S.V. BHATT

Writ Petition No.1767 of 2009

ORDER:

Heard Mr. V. Sudhakar Reddy for petitioners and the Assistant Government Pleader for respondents.

2. The petitioners challenge Section 4(1) Notification in Pbc.LASW/ 14518 dated 15.10.2008, published in 'Vaartha daily' dated 31.10.2008 and the order of 1st respondent rejecting objections raised by petitioners vide Proceedings in LA/ 11774/ 08 dated 08.01.2009, as illegal, arbitrary and contrary to the Scheme of the Land Acquisition Act, 1894 (for short 'the Act').

3. The 1st respondent issued Section 4(1) notification dated 15.10.2008, published in 'Vaartha daily' on 31.10.2008, proposing to acquire an extent of Ac.0.66 cents, as follows:

S. No.	Sy. No.	Land Details	Extent to be acquired	Name of the Pattadar	Name of the enjoyer	Waste/ Cultivation
01	1066-1	Dry	0.26	D. Leelamma W/ o Devadas Reddi	D. Leelamma	Cultivation
02	1066-2	Dry	0.30	K. S. Manjula W/ o Bhaktavatsala Reddy	K. S. Manjula	cultivation
03	1087-1	Dry	0.06	P. Kasthuri Reddy	G. Yanadamma	Cultivation
04	1092-1	Dry	0.04	K. S. Manjula W/ o Bhaktavatsala Reddy	K. S. Manjula	Cultivation
		Total	0.66			

4. The petitioners claim to be owners and possessions of the land under acquisition. The petitioners were served notice of enquiry under Section 5-A of the Act. The petitioners in response to notice, filed objections dated 27.11.2008 and also communication addressed by Sarpanch dated 19.12.2008 informing the present state of connectivity between Santha Veluru and Sathambedu village. The 1st respondent through proceedings No.LA/ 11774/ 08 dated 08.01.2009, rejected the objections raised by petitioners. Hence, the writ petition.

5. The petitioners confined the challenge to the irregularities or illegality of enquiry conducted by respondents 1 and 2 under Section 5-A of the Act and non-consideration or reference to all objections as both vitiated the enquiry under Section 5-A and also the proceedings dated 08.01.2009. The object of Section 5-A is well defined and has been considered in great detail by the Hon'ble Supreme Court in '*RAGHBIR SINGH SHEARWAT v. STATE OF HARYANA AND OTHERS*'¹ and *SURINDER SINGH BRAR AND OTHERS v. UNION OF INDIA AND OTHERS*².

6. The proposition of law on which petitioners are relying upon is not in dispute and the consideration of the instant writ petition is limited to the extent of finding out whether the proceedings dated 08.01.2009 satisfied the requirements of law and the binding precedents.

7. Mr. V. Sudhakar Reddy contends that the objections on the proposed public purpose, necessity of acquiring land for providing alternate route, existing of a black top road etc. are stated by petitioners. The objections, as well as report of the Revenue Divisional Officer, referred to selectively and respondents 1 and 2 have not been adverted to a vital objections raised in page 6 of the objections dated 27.11.2008, which reads as follows:

“...The petitioner submits that by the above said notification, the District Collector proposes to acquire only 0.66 cents of land, which is abutting Santhaveluru village. Sathambedu Dalithawada is situated far away from the lands under proposed acquisition. There are several lands situated in between the lands proposed to be acquired and Dalithawada. The notification does not speak of acquisition of those lands situated in between. Therefore, the purpose shown in the notification is not complete without acquisition of the lands in between and hence, it is clear that it is politically motivated and none else. Under those circumstances the petitioner objects for acquisition of her lands.”

8. According to him, the non-application of mind to the objections raised by petitioners would evident from the concluding portion of proceedings dated 08.01.2009, which reads as follows:

¹ (2012) 1 SCC 792

² (2013) 1 SCC 403

“In view of the above circumstances and as per the powers conferred under G.O.Ms.No.1008, Revenue (K) Department dated 12.03.1980, the objections of the pattadars are rejected.”

9. I have perused the proceedings dated 08.01.2009 and *prima-facie* I am satisfied that the consideration of objections or manner of conducting enquiry under Section 5-A of the Act, having regard to the purpose of acquisition, the proceedings are unsustainable. By following the principle laid down by the Apex Court in the decisions referred to above, the proceedings dated 08.01.2009 are set aside.

10. The respondents 1 and 2 are given liberty, if circumstances still subsist for continuing with the acquisition, to follow the procedure stipulated in Chapter-IV of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) and proceed to complete the acquisition proceedings, accordingly. The petitioners are also given liberty to raise all objections available as and when a notice is issued proposing to conduct enquiry in this behalf.

11. The writ petition is ordered as indicated above. No order as to costs. Pending miscellaneous petitions if any in this writ petition shall stand dismissed in consequence.

S.V.BHATT, J

Date: 21.08.2017
BSS

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