

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION NO.10918 OF 2006

ORDER:

This Writ Petition is filed to issue a writ of mandamus declaring the action of the respondents in acquiring the lands of the petitioners in Survey No.43-A and 43-B situated at Kosigi Village and Mandal for the purpose of allotting house sites to the Scheduled Caste and Backward Class people without conducting enquiry under Section 5(A) of the Land Acquisition Act ("the Act" for brevity), as illegal, arbitrary and violative of Articles 14, 21 and 300-A of the Constitution of India and consequently, to direct the respondents not to acquire the petitioners' lands.

The case of the petitioners is that they are the permanent residents of Kosigi Village and Mandal, Kurnool District. They belong to Boya Community, which is recognized as Backward Class and they are the owners and possessors of the lands shown as under.

	<u>Survey No.</u>	<u>Extent in cents</u>
1 st Petitioner	43-A	0.76
2 nd Petitioner	43-B	0.34
3 rd Petitioner	43-A, 43-B	0.51, 0.34
4 th Petitioner	43-B	0.36
5 th Petitioner	43-A, 43-B	0.09, 0.34
6 th Petitioner	43-A	0.44
7 th Petitioner	43-A, 43-B	0.51, 0.34
8 th Petitioner	43-A	0.25
9 th Petitioner	43-A	0.25
10 th Petitioner	43-A	0.25

They have been living by cultivating the said lands. The lands are being irrigated by well water. Except these lands, they have no other lands. They own only small extents of land and they are small farmers cultivating the lands. The second respondent acquired the lands under the provisions of the Land Acquisition Act by issuing notification for the purpose of allotting house sites to the weaker sections of the society. The said notification was issued under Section 5 dispensing with the enquiry by invoking provisions of Section 17(4) of the Act.

The main contention is that enquiry under Section 5(A) of the Act cannot be dispensed with in case of agricultural lands which are under cultivation for providing house sites. Under the guise of public interest the petitioners cannot be thrown away from their lands.

This Court granted interim stay on 01.06.2006 in WP.MP.No.13605 of 2006. Thereafter, the respondents have not filed any counter or vacate stay petition. For non-filing of the counter, the appearance of the second respondent was ordered on 08.12.2017.

Today WP.MP.No.54564 of 2017 is filed seeking dispensing with of the personal appearance of the second respondent which was ordered by order dated 22.12.2017. Along with the dispense with petition, a memo in Rc.H.4/SWLA/2006 dated 18.12.2017 is filed stating that due to interim orders granted by this Court on 01.06.2006, the petitioners could not be dispossessed from their lands, which were proposed to acquire to provide house sites to the weaker sections of the society. They have stated in the proceedings that the Mandal Revenue Officer, Kosigi and the

Revenue Divisional Officer, Adoni have decided to drop the acquisition proposals after enquiring the villagers of Kosagi, as there is no need for house sites to acquire the above lands. Hence, draft notification and draft declaration were lapsed by 22.02.2008. Therefore, the process of acquisition of lands in Survey No.43-A and 43-B of Kosigi village for providing house sites to weaker sections was already dropped and the subject lands are under possession and enjoyment of the petitioners.

In view of the above submissions, the cause of action of the Writ Petition does not survive and hence, the Writ Petition is closed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

22nd December 2017
RRB

(M.GANGA RAO, J)

