

HON'BLE SRI JUSTICE S.V. BHATT

Writ Petition No.27973 of 2008

ORDER:

Heard Mr. Naresh Kumar for petitioners and the learned Assistant Government Pleader (Land Acquisition) for respondents.

2. The petitioners challenge Section 4(1) notification and draft declaration under Section 6 of the Land Acquisition Act, 1894 (for short 'the Act') in RC No.4384/ 07-G2 dated 15.11.2007 and 17.11.2008, respectively, as illegal, arbitrary and unconstitutional.

3. The respondents through the acquisition proceedings impugned in the writ petition are proposing to acquire an extent of Ac.1.00 in Sy.No.407-2A of Somasundarapalem Village H/o Katevaram, Tenali Mandal. The petitioners challenge the acquisition proceedings on various grounds, including suitability of petition land for providing house sites to the weaker sections. According to petitioners, there is Government land in Sy.No.356/ B of Somasundara Palem. The available Government land can be utilised for providing house sites to weaker section. The objection, though is referred in the order of 1st respondent, finding recorded thereon is illegal and untenable, for according to petitioners, Tenali Municipality through letter dated 16.02.2008 has clearly stated that Sy.No.356/ B in an extent of Ac.1.02 cents was not allotted to Tenali Municipality and still available for use by the Government.

4. The petitioners, on 22.12.2008, filed the instant writ petition and this court granted stay of dispossession of petitioners from the petition land. It is necessary to note that the petitioners, as a matter of fact, sought for interim stay of all proceedings under land acquisition, including stay of dispossession, however, this court has limited the interim relief to stay of dispossession. Counsel for petitioners, having regard to Act 30 of 2013 and in spite of draft declaration Gazetted on 19.12.2007 and failure to pass the award within two

years from the date of draft declaration, contends that the land acquisition proceedings are lapsed under Section 11-A of the Act.

5. Section 11-A of the Act reads as follows:

“Section 11-A –Period within which an award shall be made:-

(1) The Collector shall make an award under Section 11 within a period of two years from the date of publication of declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse;

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 the award shall be made within a period of two years from such commencement.”

6. The Assistant Government Pleader places on record the letter of the Revenue Divisional Officer/2nd respondent in Rc.No.3096/ 2017/ F, dated 16.08.2017, wherein 2nd respondent states that the subject land is required for providing house sites and respondents are prepared to follow the provisions of the Act 30 of 2013. The statement is placed on record.

7. The notification in RC No.4384/ 07-G2 dated 15.11.2007 and draft declaration dated 17.11.2008 are declared as lapsed under Section 11-A of the Act. However, liberty is given to respondents to proceed, if circumstances warrant under Act 30 of 2013. In the event, the land is proposed for acquisition, the petitioners can take all objections available in this behalf.

8. 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.

Date: 22.08.2017
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