

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.14850 OF 2009

ORDER:

The petitioner challenges the proceedings in Rc.No.L65/2008, dated 06.12.2008 rejecting the objections raised by petitioner against the draft notification under Section 4(1) of Land Acquisition Act, 1894 (for short 'the Act') proposing to acquire the land to an extent of Ac.0.73 cents in Sy.No.265/1 of Bheemavaram Village for providing house sites to weaker sections as illegal, contrary to scope and object of Section 5 (A) of the Act.

Learned Assistant Government Pleader for Revenue places on record the copy of proceedings dated 06.12.2008 whereunder the objections are stated to have been considered and rejected.

The purpose, scope and object of enquiry under Section 5 (A) of the Act is no more *res integra* and this Court does not propose to burden this order by referring to well settled proposition of law. The principal objection of petitioner is that the land in Sy.No.265/1 is located on the water flow of Kundu river and is prone to sub-mergence quite often. After perusing the proceedings dated 06.12.2008, counsel for the petitioner contends that non-consideration of objections including this important objection is evident from the proceedings dated 06.12.2008. Therefore, he prays for setting

aside the impugned proceedings and subsequent draft declaration dated 08.12.2008.

Learned Assistant Government Pleader, having regard to settled proposition of law and also the manner in which these objections are considered, could not sustain the proceedings dated 06.12.2008 and the consequential draft declaration if any issued in this behalf. On this short ground of unsustainable consideration of objections by respondents, the rejection order of respondent No.1 is set aside. The respondents are given liberty, if circumstances still warrant, to pursue the subject land acquisition. However, the same shall be in accordance with the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. As and when the petitioner receives notice of enquiry in this behalf, all objections available are permitted to be taken and same are considered in accordance with law.

Writ petition is ordered as indicated above and the impugned proceedings are set aside. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S.V.BHATT, J

Date: 21.08.2017
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