

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.18149 OF 2006

ORDER:

1. This writ petition is filed questioning the action of the 1st respondent in issuing the notification, dated 10.08.2006, under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act'), which got published in the daily news papers on 22.08.2006, proposing to acquire the petitioners wet agricultural land for the purpose of providing house sites to the weaker sections, as illegal and arbitrary.

2. The brief facts of the case, according to the petitioner, so far as relevant for the purpose of disposal of this writ petition, are that the petitioner is the absolute owner and possessor of the land in an extent of Ac.4.87 cents in Survey Nos.373, 435/5, 436/4, 435/3, 425/3 of Dosapadu Village, Pedaparapudi Mandal, Krishna District. The survey No.373, which is situated far away from the village, contains more than Ac.15.00 cents of land, out of which the petitioner owns an extent of Ac.3.00 cents in Survey No.373 in three different parts *i.e.*, Ac.1.00 cents in each plot. In Survey No.373, Ac.1.75 cents of land belonging to one Kondapalli Sitharami Reddy also reflects in the notification. It is further stated that the petitioner's lands are suitable for cultivation of the paddy and, since time immemorial, those lands were under the cultivation of the petitioner. In between the petitioner's land and the village in Survey No.373, there is vast extent of land available and the pattedars offered an extent of Ac.4.00 cents of land for the purpose of house sites. But, only on the ground that the petitioner is staying away from her lands, and shifted to Betavolu village, the respondents, in a biased manner are proceeding to acquire the lands of the petitioner. There is no conversion of the land of the petitioner from agricultural to non-agricultural purpose for the purpose of providing

house sites to the weaker sections and, therefore, the lands of the petitioner cannot be declared as suitable for the purpose of residential plots.

3. A counter affidavit has been filed on behalf of the respondents' *inter-alia* contending that there is no Government land or Pormaboke land available in N.Mydukur Village for grant of house sites to the weaker sections. There are no structures and trees in the said land. The Tahsildar, Pedaparapudi Mandal has submitted the land acquisition proposals of draft notification under Section 4(1) of the Act and Draft Declaration under Section 6 of the Act to the Revenue Divisional Officer, Gudivada *vide* his letter dated 02.08.2006 and, after due enquiry, the Revenue Divisional Officer, Gudivada has submitted the said Draft Declaration proposals to the District Collector, Krishna for approval *vide* letter dated 07.08.2006. Thereafter, the District Collector has approved the Draft Notification under Section 4(1) of the Act on 10.08.2006. The Draft Notification was published in the District Gazette on 14.08.2006, in other daily news papers on 22.08.2006, and the substance was published in the locality on 24.08.2006. Thereafter, on 28.08.2006, notices under Section 5-A of the Act were issued to the petitioner requesting her to appear before the Revenue Divisional Officer, Gudivada on 05.09.2006 along with her objections. As the petitioner refused to take notices, notices by way of substitute service were served on the petitioner on 20.08.2006. At that stage, the petitioner has approached this Court.

4. Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

5. On 01.09.2006, this Court, while admitting the writ petition, granted *interim* stay on the even date.

6. Today, when the matter came up for hearing, learned counsel for the petitioner submits that as the petitioner did not participate in the said enquiry and filed her objections, she may now be permitted to participate in the said enquiry along with her objections with regard to acquisition of her land.

7. Acceding to the request of learned counsel for the petitioner, without going into merits of the case, the respondents are directed to issue notices to the petitioner under Section 5-A of the Act, afresh, receive the objections from her and, thereafter, proceed with the matter, in accordance with law.

Accordingly, with the above direction, the writ petition is disposed of. As a sequel, miscellaneous petitions, if any, pending in this writ petition shall stand closed.

Date: 20.12.2017.
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KONGARA VIJAYA LAKSHMI, J



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