

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.14697 OF 2009

ORDER:

This writ petition is filed questioning the draft declaration dated 11.7.2009, issued under Section 6 of the Land Acquisition Act, 1894 (for short, "the Act").

The facts of the case, according to the petitioners are that the respondents have issued Section 6 declaration on 11.07.2009, declaring that the land admeasuring Ac.211.18 guntas is required for construction of a Water Treatment Plant and Reservoir Campus, under Moulana Abdul Kalam Azad Srujala Sravanthi Project (Godavari Project). They have invoked urgency clause under Sections 17(4) of the Act. The 1st petitioner is the owner of the land admeasuring Ac.5.00 in Sy.No.74 of Irukulla Village, Karimnagar Mandal and District and the 2nd petitioner company is the lessee of the 1st petitioner. Invoking urgency clause and dispensing with Section 5(A) enquiry is bad. 80% of the compensation amount is not paid under Section 17(3-A) of the Act. Petitioners' daughter commenced the business of manufacturing of asbestos cement pressure pipes by obtaining the requisite permissions.

A counter-affidavit has been filed by the 4th respondent on behalf of the respondents 1 to 4. According to the said counter, General Manager (Engg), Project Division-III, HMWS & SB, Hyderabad vide his letter dated 18.2.2009 has filed requisition proposals for acquisition of lands to an extent of Ac.390.38 gts., situated in villages of Irukulla and Muqdumpur of Karimanagar Mandal and District for locating the Water Treatment Plant and Reservoir Campus. The draft notification and draft declaration

proposals under Section 4(1) Notification and 6 of the Act for acquisition of Ac.211.18 gts., of Patta lands situated in Irukulla Village of Karimnagar Mandal and District have been submitted invoking the urgency clause under Section 17(4) of the Act dispensing with the enquiry under Section 5-A of the Act to the Special Collector, L.A. SRSP, Hyderabad. The same were approved and got published in the Gazette, daily newspaper and the substance of the notification was also published in the local newspapers. It is further stated that the petitioners' land is being acquired strictly following the due process of law.

On 23.07.2009 when the writ petition has come up for admission, notice before admission was ordered and status quo obtaining as on that day was directed to be maintained in all respects.

The 5th respondent filed an implead petition seeking to implead itself as 5th respondent in the writ petition and the same was ordered today.

The 5th respondent is the beneficiary for the acquisition of the land and as it was not a party respondent, it has filed an implead petition. In the affidavit filed in support of the implead petition, it has been stated that the draft notification and draft declaration proposals under Section 4(1) and Section 6 of the Act for acquisition of Ac.211.18 gts of patta land situated in Irukulla Village of Karimnagar Mandal and District were submitted invoking the urgency clause under Section 17 of the Act dispensing with the enquiry under Section 5 of the Act, to the Special Collector, L.A. SRSP, Hyderabad and the same were published in local

newspapers. It is stated by the Managing Director of the 5th respondent that the “petitioners’ land for an extent of Ac.5.00 in Sy.No.74 situated in Irukulla Village of Karimnagar Mandal and District, has not been acquired by the Land Acquisition Officer.”

It is stated that possession was also not taken by the requisition department for the purpose of construction of Reservoir and Water Treatment Plant for supply of drinking water to the twin cities of Hyderabad and Secunderabad in view of the status quo granted by this Court on 23.07.2009 in the present writ petition. Award was also not passed. However, the project of Water Treatment Plant and Reservoir Complex has been completed without acquiring the lands of the petitioners. The contents of the counter affidavit of the 5th respondent are not disputed by the counsel for respondents and the petitioners.

Having regard to the facts and circumstances of the case and especially in view of the fact that very project of Water Treatment Plant and Reservoir Campus has already been completed without acquiring the lands of the petitioners, no further orders are required to be passed in the present writ petition.

Accordingly, the writ petition is dismissed. No order as to costs.

Miscellaneous Petitions pending, if any, in this writ petition shall stand dismissed.

KONGARA VIJAYA LAKSHMI,J

Date:10.11.2017.
Gk.

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