

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.5421 OF 2008

ORDER:

Petitioners challenge the order of respondent No.1 dated 22.02.2008 rejecting their objections made under Section 5A of the Land Acquisition Act, 1894 (Old Act).

While petitioner Nos.1 and 2 claim to be the land owners in R.S.Nos.455/2 and 455/4 of Ac.0.41 cents each respectively, petitioner Nos.3 and 4 claim to be interested persons claiming title in R.S.Nos.455/3, 5 and 6 of Ac.0.46 cents each of Adavinekkalam Village, Agiripalli Mandal, Krishna District. Draft notification, under Section 4(1) of the Old Act, was issued on 05.10.2007. Urgent Notice dated 30.01.2008 was issued to the petitioners requiring them to file objections under Section 5-A of the Act. Petitioners claim to have filed objections. Impugned order dated 22.02.2008 was passed by respondent No.1 rejecting the objections made by the petitioners. Hence the writ petition.

Counter affidavit is filed resisting the writ petition. While admitting the Writ Petition on 19.03.2009, this Court made absolute stay of dispossession granted on 14.03.2008. It is not necessary for this Court to delve further on the merits of the case on account of changes that have taken place in relation to Old Act. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came to be enacted replacing the Old Act. Acquisition proceedings initiated under the Land

Acquisition Act, 1894 are saved only to a limited extent in terms of Section 24 of Act 30 of 2013. Admittedly, in the present case, declaration under Section 6 was not made, on account of which, determination of compensation payable under Section 11A of the Act has not been arrived at. Only in cases where determination of compensation alone is pending, acquisition proceedings are saved under Section 24(1)(a) of Act 30 of 2013.

In the case on hand, order under Section 5A is challenged. This Court only granted stay of dispossession. In other words, there was no impediment to proceed further, and make award in terms of Old Act. However, no award is made till date. The Division Bench of this Court, in W.A.No.327 of 2017, held that stay of dispossession is restricted only to stay of dispossession which does not prevent the authorities to have proceeded to pass award within the provisions of Old Act which mandate an award being passed within two years from the date of declaration.

Accordingly, the Writ Petition is allowed, quashing Section 4(1) Notification dated 05.10.2007. There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

CHALLA KODANDA RAM,J

Dated:26.07.2017
usd