

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.3441 OF 2008

ORDER:

This Writ Petition is filed questioning the Notification, dated 27.08.2007, issued under Section 4(1) of the Land Acquisition Act, 1894 (in short "the Act") and the Draft Declaration dated 30.01.2008 made under Section 6 of the Act 1894.

2) It is the case of the petitioner that the 2nd respondent-District Collector, Krishna District has issued Section 4(1) Notification, dated 27.08.2007, proposing to acquire an extent of Ac.190-31 cents of land, for the purpose of issuing house site pattas to the weaker sections of the society, out of which Ac.06-00 cents of land, situated in Sy.No.49/2 of Modamedipalli Village of Proddatur Mandal, Kadapa District, belongs to the petitioner. Pursuant to the 4(1) Notification he has submitted his objections through letter dated 11.10.2007, thereafter, during the 5-A enquiry, conducted by the 3rd respondent on 29.12.2007, he submitted that in the year 2006 an extent of Ac. 3-24 cents was acquired by the Government for the purpose of construction of apparel park and further submitted that there are alternative government lands available for acquisition and it is only on account of political rivalry in the village the lands of the petitioner were acquired, in that view of the matter, the acquisition *per se* is *malafide* and liable to be set aside

3) Learned Government Pleader by making a reference to the counter affidavit would submit that after considering the objections of the petitioner raised during the 5-A enquiry, 2nd respondent has rejected the same and issued Draft Declaration under Section 6 of

the Act on 30.01.2008. It is further submitted that since the land of the petitioner is situated in the midst of the land proposed for acquisition, it has become inevitable to acquire the petitioner's land. In the circumstances, learned Government Pleader opposed the Writ Petition and submits that the writ petition deserves to be dismissed.

4) Learned counsel for the petitioner submits that the possession of the land has not yet been taken by the respondents and no Award has been passed till today. It is further submitted that this Court granted interim stay of dispossession on 28.02.2008 and admitted the Writ Petition on 04.03.2009. Learned counsel for the petitioner places reliance on the judgment of the Supreme Court in **LAXMI DEVI V. STATE OF BIHAR AND OTHERS**¹ besides placed reliance on the order of the Division Bench in W.A.No.327 of 2017, dated 01.06.2017, wherein this Court had taken into consideration that the stay of dispossession does not bar passing of an Award and in the circumstances when the Award is not made within two years period, as mandated under Section 11-A of the Act, the Notification issued under Section 4(1) of the Act would lapse.

5) Having considered the respective submissions and the facts of the present case, it is to be noted that as on date no Award has been passed and even no Award enquiry was conducted by the Land Acquisition Officer. Further, this Court granted only stay of dispossession on 28.02.2008. In other words, there was no impediment on the Land Acquisition Officer to conduct Award enquiry and to pass orders. Inasmuch as, Section 6 Draft

¹ (2015) 10 SCC 241

Declaration was made on 27.08.2007, the Award ought to have been passed within two years from that date. Admittedly, no Award was made within the period as mandated under proviso to Section 11-A of the Act. In such circumstances, the Land Acquisition Proceedings would lapse in terms of the proviso to Section 11-A of the Act and this matter is no more *res integra* as the order of the learned Single Judge in W.P.No.6026 of 2012 has been confirmed by the Division Bench of this Court in W.A.No.327 of 2017.

6) Accordingly, the writ petition is allowed, quashing the Section 4(1) Notification and Section 6 Draft Declaration. There shall be no order as to costs.

7) Consequently, miscellaneous petition pending, if any, shall stand closed.

JUSTICE CHALLA KODANDA RAM

Dated:25.07.2017
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