

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.26241 OF 2009

ORDER:

The petitioner challenges proceedings Rc.G2A/450/2008 dated 17.09.2009 proposing to acquire Acs.1-68 Cts in Kothuru Village, Tadepalli Panchayat, Vijayawada Rural Mandal, Krishna District for earth work excavation of Jakkampudi Major Canal, without considering the objections submitted by petitioner under Section 5-A of the Act, as illegal and contrary to Section 5-A of the Land Acquisition Act ('the Act' for short).

On 21.02.2009, 4(1) notification was published in State Gazette No.07/KST/2009, in newspaper on 09.03.2009 and publication in the locality on 09.03.2009. The 2nd respondent issued notice under Section 5-A of the Act intimating about the date of enquiry. The enquiry under Section 5-A of the Act was conducted on 22.05.2009. The petitioner submitted objections but they were overruled by the 1st respondent. Challenging the same, the petitioner filed the instant writ petition.

The grievance of petitioner is that the proceedings do not refer to complying with the requirements of sub-section (2) of Section 5-A of the Act. The opportunity provided under sub-section (2) of Section 5-A of the Act is valuable opportunity and on the acquisition, extent of acquisition etc., if an opportunity is given, the enquiry conducted can be said to be satisfying with the requirements of Section 5-A(2) of the Act.

The petitioner challenges the order rejecting objections as illegal and the enquiry conducted under Section 5-A is unsustainable in law, for the objections were overruled in a routine and monotonous way vide proceedings dated 17.09.2009. With effect from 01.01.2014, Act No.30 of 2013 has been holding the field in the matter of acquisition of land by State in exercise of its power under eminent domain. Hence, counsel for petitioner made submissions keeping in view the overruling of Land Acquisition Act, 1894, effect of repeal/savings and ultimately if circumstances warrant necessity to follow the mandate of Sections 12 to 18 of Act 30 of 2013.

The Assistant Government Pleader, on instructions, submits that the record does not disclose affording opportunity to petitioner while considering the objections at any stage of the matter.

Be that as it may, the petitioner challenges proceedings Rc.G2A/450/2008 dated 17.09.2009 proposing to acquire Acs.1-68 Cts in Kothuru Village. On 08.12.2009, this Court initially granted *status quo* and the same was extended on 22.12.2009 and later granted interim stay on 27.04.2010 in W.P.M.P.No.34149 of 2009. The interim order in the case on hand protected possession of the petitioner.

Having regard to the above circumstances and on the ground that the proceedings dated 17.09.2009 is contrary to Section 5-A(2) of the Act, the land acquisition proceedings, as they

stand today, are lapsed under Section 11-A of the Act, as no award is passed.

The writ petition is, accordingly, ordered. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

13th September, 2017

Lrkm

S.V.BHATT, J

