

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.13207 OF 2007

ORDER:

This Writ Petition is filed seeking the following relief:

“....to quash the notification dated 18.06.2007 issued under Section 4 (1) of the Land Acquisition Act, 1894 as published in Andhra Jyothi on 18.06.2007 as illegal, arbitrary and unjust by issuing appropriate writ of *Mandamus*.”

It is a case of the petitioner that notice under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act') was issued on 18.06.2007 to acquire the land over an extent of Ac.3.50 cents of agricultural land for providing house sites to weaker sections. In the writ petition, it was specifically averred that it is impermissible for the District Collector to authorize the Revenue Divisional Officer to conduct Section 5A enquiry and such delegation is impermissible. Section 3(c) of the Act defines that the 'Collector' means the Collector of a District and includes a Deputy Commissioner and any other officer specially appointed to perform the functions of the District Collector under the Act. The R.D.O being not a Collector delegating the functioning of conducting Section 5A enquiry is bad in law.

Though this writ petition is of the year 2007, no counter-affidavit is filed denying the allegations. It may also be noted that by the Act, 30 of 2013, the Land Acquisition Act, 1894 came to be repealed. The land acquisition proceedings initiated under the Act, 1894 are saved to a limited extent as provided under Section 24 of the Act, 2013. In the present case, at this stage, there is no

possibility of conducting Section 5A enquiry and making a Section 6 declaration. Under Section 24(1)(a) of the Act, 2013, where an award is not made in relation to the land acquisition proceedings initiated under the Act, 1894 only the determination of compensation is permissible. In other words, the matters must have passed the stages of Section 5A enquiry, Section 6 declaration, Sections 7 and 8 and only the things remaining to be done for being determining the compensation payable for the lands proposed to be acquired. In the case on hand, on account of the fact that there was no Section 5A enquiry and Section 6 declaration, the land acquisition proceedings cannot be proceeded further.

While admitting the writ petition, this Court granted the interim stay of all further proceedings by order dated 25.06.2007.

In as much as the interim stay was granted on 25.06.2007 and on account of the fact that the Land Acquisition Act, 1894 stands repealed by Act 30 of 2013, the proceedings cannot be proceeded any further.

In these circumstances, the impugned notification is quashed giving liberty to the respondents to take action, if otherwise, the land is needed in terms of Act 30 of 2013.

Accordingly, the Writ Petition is allowed quashing the notification dated 18.06.2007 issued under Section 4 (1) of the Land Acquisition Act, 1894 as published in Andhra Jyothi on 18.06.2007. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. No order as to costs.

CHALLA KODANDA RAM,J

Date:25.07.2017
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