

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.22653 of 2017

ORDER:

Heard the learned counsel for the petitioner, learned Government Pleader for Assignment and learned Government Pleader for Land Acquisition, appearing for the respondent Nos.1 to 4 and Sri D.V.N.Acharya, learned counsel for 5th respondent-Wakf Board.

2. Petitioner has questioned in this Writ Petition proceedings in Rc.No.397/99/B/11-3-99 of 3rd respondent addressed to the Secretary, District Wakf Committee, Anantapur informing the that the land in Sy. No.407-2E etc. of Kutagulla village of Kadiri Mandal is taken over for the purpose of house sites to the weaker sections and 80% of compensation amount awarded is being forwarded through demand drafts.

3. Admittedly, notification under Section 4 (1) of the Land Acquisition Act, 1894 (for brevity 'the Act') for acquiring lands in Sy. Nos.407-6, 407-9, 407-10, 407-11 and 407-12 of Kutagulla village were issued separately and were published in the District Gazette. Details thereof have been mentioned in paragraph 2 (i) and 2 (ii) of counter of 3rd respondent. Subsequently, draft declaration under Section 6 was approved by the District Collector, Anantapur and the same was also published as mentioned in sub para (iv) of para-2 of the counter of 3rd respondent. These lands belong to the Dargah Hazrat

Shah Zaheeruddin Baba Shah Hussaini (Rh), Kutagulla village, of which petitioner is the Muthavalli.

4. Though the provisions of Section 17 (4) of the Act, 1894 were not invoked, strangely, compensation amount determined at 18% was paid to the 5th respondent amounting to Rs.4,69,560/-.

5. Learned Government Pleader for Land Acquisition appearing for 1st respondent states that the notifications in question have been struck down by this Court in W.P.No.8845 of 1999 dt.19-08-2009 and in W.P.No.14747 of 1999 dt.16-09-2008.

6. It is also submitted by the learned Government Pleader for Land Acquisition appearing for respondent Nos.2 to 4 that no award has been passed in regard to the subject land by 3rd respondent and in fact, once declarations under Section 6 had been quashed in the above said Writ Petitions, the entire land acquisition proceedings are deemed to have been lapsed.

7. Learned counsel for the petitioner contends that the petitioner is still in possession of the subject land, but the respondents are still acting as if the subject lands are Government lands and that the acquisition is valid, and this Court therefore ought to declare that the subject lands continue to be with the Dargah Hazrat Shah Zaheeruddin Baba Shah Hussaini (Rh), Kutagulla village, Kadiri Town, Anantapur, of which the petitioner is the Muthawalli.

8. Learned counsel for the AP Wakf Board Sri D.V.N. Acharya also states that the properties in question belong to the said Darga and that the Wakf Board is opposing the acquisition of the said land by the State.

9. Having regard to the above facts, since declarations under Section 6 issued in respect of the subject land have been set aside by this Court in Order dt.19-08-2009 in W.P.No.8845 of 1999 and order dt.16-09-2008 in W.P.No.14747 of 1999, the land acquisition proceedings lapse, and it is declared that the subject land belongs to the Darga, referred to above, and that the respondents shall not interfere with the possession and enjoyment by the said Darga without following due process of law. Liberty is given to the respondents to recover the amount paid to 5th respondent towards the acquisition.

10. Accordingly, the Writ Petition is allowed. No costs.

11. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-12-2017
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