

THE HON'BLE SRI JUSTICE M.GANGA RAO

W.P. No.17091 of 2007

ORDER:

This writ petition is filed under Article 226 of the Constitution of India to declare the draft declaration issued under Section 6 of the Land Acquisition Act, 1894 (for short 'the Act') vide proceedings in RC.No.G3/3264/2006, dated 08.04.2007, issued by the 1st respondent and published on 11.04.2007, as illegal and unjust.

2. It appears that a notification under Section 4(1) of the Act dated 12.06.2006 was issued for acquisition of the petitioner's land to an extent of Acs.9.47 cents situated in Sy.Nos.88/1, 89/B, 92/2, 93/2, 94/1, 95/1, 96/1 and 99/1 of North Rajupalem in Kodavalur Mandal, Nellore District, for the purpose of providing houses to the weaker section people under 'Indiramma Programme'. The lands are double crop wet lands. When the enquiry under Section 5-A of the Act was dispensed with by invoking urgency clause under Section 17(4) of Act, the petitioner along with another filed W.P.No.15018 of 2006 before this Court to quash 4(1) notification issued by dispensing with enquiry under Section 5-A of the Act. This Court on 21.07.2006 disposed of the said writ petition holding that dispensing of enquiry under Section 5-A of the Act is illegal and unsustainable and directed the respondents to issue notice to the petitioners therein for submission of objections, if any, to the proposal to acquire the lands. On the petitioners' submitting their objections, within the time stipulated in the notice, the same shall be

considered and an appropriate decision be taken duly communicating the decision to the petitioners, simultaneously with the recommendations made after the enquiry under Section 5-A of the Act by the acquiring authority. The petitioners shall not be dispossessed pending communication of the decision to the petitioners consequent on the enquiry under Section 5-A of the Act. Thereafter, as per orders of this Court, the respondents, after conducting ineffective enquiry under Section 5-A of the Act, rejected the objections raised and issued the order for acquisition of the above said land, which was not communicated to the petitioners. Further, the draft declaration under Section 6 of the Act was issued on 11.04.2007, but in view of the *status quo* order, in respect of the possession of the lands, passed by this Court on 02.04.2007 in W.P.No.6576 of 2007, which is filed by one Tirumuru Venkataramireddy and another of Pandluru Village of Naidupeta Mandal, no award enquiry was conducted. Thereafter, no further proceedings were taken-up to conclude the award enquiry under the provisions of the Act in respect of the petitioner's land even though no interim order was passed by this Court in the present writ petition.

3. During the pendency of the writ petition, the new Act i.e. The Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act 30 of 2013') came into force w.e.f.01.01.2014. As per Section 24(1)(a) of Act 30 of 2013, if the land acquisition proceedings were initiated under the Land Acquisition Act, 1894, and no award under Section 11 of the said Act has been made,

all the provisions of the new Act relating to the determination of compensation shall apply.

4. Under Section 11(A) of the Act, the award has to be passed within a period of two years from the date of publication of the declaration and in computing the period of two years, the period during which any action or proceeding to be taken in pursuance of the said declaration stayed by the order of Court shall be excluded. Even if that period is excluded and an award is liable to be passed, now it cannot be done under the provisions of the Act, as the action has to be taken as per Section 24(1)(a) of Act 30 of 2013. The interplay of Section 11-A of the Act and Section 24(1)(a) of Act 30 of 2013 was considered by the Apex Court in *Laxmi Devi Vs. State of Bihar and Others*⁽¹⁾ and in view of the conflicting situation, it was held that the acquisition proceedings initiated under the Act are liable to be set aside and the respondents-State were given liberty to issue a fresh notification, if they so choose, under Section 24(1)(a) of Act 30 of 2013.

5. In view of the ratio laid down by the Apex Court, the acquisition proceedings initiated in respect of the petitioner's land would lapse. Accordingly, the writ petition is allowed. It is needless to observe that allowing of the Writ Petition will not preclude the Government from acquiring the aforementioned lands of the petitioner in future either for the original purpose or for any other purpose. No costs.

¹ (2015) 10 SCC 241

6. Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

M.GANGA RAO, J

25.01.2018
sur/TSNR

