

THE HON' BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.19606 of 2007

ORDER:-

This Writ Petition is filed to issue a Writ of Mandamus declaring the action of respondent No.1 in issuing the notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') proposing to acquire the petitioner's lands situated in Survey Nos.181/ 2, 181/ 3, 181/ 4, 181/ 6, 181/ 7, 181/ 8, 181/ 9, 181/ 10, 181/ 12 and 181/ 13 to an extent of Ac.4.05 cents situated in Kammapalle Village, Ramachandrapuram Mandal of Chittoor District dispensing with the enquiry under Section 5A of the Act by invoking urgency clause under Section 17(4) of the Act, as arbitrary, discriminatory and violative of the Articles 14, 21 and 300-A of the Constitution of India and consequently direct the respondents to conduct an enquiry under Section 5A of the Act.

2. The brief facts of the case are that respondent No.1 issued a notification under Section 4(1) of the Act on 01.06.2007 proposing to acquire the petitioner's lands to an extent of Ac.4.05 cents situated in Survey Nos.181/ 2, 181/ 3, 181/ 4, 181/ 6, 181/ 7, 181/ 8, 181/ 9, 181/ 10, 181/ 12 and 181/ 13 in Kammapalle Village, Ramachandrapuram Mandal of Chittoor District for construction of the Weaker Sections

Colony and also for the disabled persons due to submergence, for formation of Sreenivasa Sagar under Galeru Nagri Sujala Sravanthi (GNSS) several persons of two villages viz., Siddeswara S.T. Colony and Kondakinda Indlu' Hamlet of Kammapalle Village are to be displaced due to submergence. In order to accommodate the displaced families, the land to an extent of Ac.4.05 cents situated in Survey Nos.181/2, 181/3, 181/4, 181/6, 181/7, 181/8, 181/9, 181/10, 181/12 and 181/13 in Kammapalle Village, Ramachandrapuram Mandal of Chittoor District has been selected and proposed for acquisition under the provisions of the Act for construction of houses.

3. While issuing the notification under Section 4(1) of the Act, Section 5A enquiry was dispensed with invoking urgency clause under Section 17(4) of the Act. In those circumstances, when the respondents are trying to dispossess the petitioner from his lands, the petitioner filed W.P.No.19193 of 2006 before this Court questioning the land acquisition proceedings issued vide notification under Section 4(1) of the Act dispensing with Section 5A enquiry by invoking urgency clause under Section 17(4) of the Act. This Court, by order dated 15.09.2006, disposed of the said Writ Petition holding the enquiry under Section 5A of the Act is a salutary statutory provision intended for affording a reasonable opportunity to

the owners of lands to object to the acquisition on any relevant grounds as they wish to submit and accordingly, directed the respondents to issue notice to the petitioner for submission of objections, if any, to the proposal to acquire the lands and further directed the respondents not to dispossess the petitioner pending communication of the decision to the petitioner consequent on the enquiry under Section 5A of the Act. Accordingly, the petitioner was issued notice on 20.08.2007 to attend the 5A enquiry scheduled to be held on 25.08.2007.

4. On 12.11.2007, this Court while admitting the present Writ Petition passed the interim order in W.P.M.P.No.25253 of 2007 staying of dispossession of the petitioner from his lands. In view of the said interim order, the respondents could not proceed further; as such no further proceedings are taken up for conclusion under the Act.

5. When this Writ Petition is pending before this Court, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act 30 of 2013') came into force with effect from 01.01.2014. As per Section 24(1)(a) of the Act 30 of 2013, if the land acquisition proceedings were initiated under the Act and no award under Section 11 of the Act has been made, all

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

6. 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 the Act 30 of 2013.

In the circumstances, this Writ Petition is allowed by setting aside the impugned notification. It is needless to observe that allowing of the Writ Petition will not preclude the Government from acquiring the aforementioned land of the petitioner in future either for the original purpose or for any other purpose. No costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

30.01.2018
MVA

M. GANGA RAO, J