

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.1835 of 2018

ORDER:

Challenging the action of the respondents in not considering the objections filed by the petitioner, to the Notification vide Rc.No.875783/2017, R&R dated 20.08.2017, the present Writ Petition is filed.

2) As can be seen from the averments in the writ affidavit, the petitioner and the 6th respondent are brothers. The petitioner claims that there is a joint family property i.e., land over an extent of Ac. 40-80 cents land, situated at Reddyganapavaram Village, Buttaigudem Mandal. After deducting the land to an extent of Ac.7-40 cents, which was given to their sisters, an extent of Ac.33-40 cents of land is said to be partitioned between the petitioner and the 6th respondent, on 17.10.2009, through an unregistered partition deed and since then, the respective parties are in cultivation and enjoyment of their extents of land i.e. Ac.16-70 cents each. Now, in the Notification, dated 20.08.2017, issued by the 2nd respondent, under Section 11 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short "the Act"), only the 6th respondent's name was shown, and the petitioner's name came to be omitted. The petitioner apprehends that his right would not be taken into consideration with respect to the balance land of Ac.6-50 cents, as already his name was recorded in the revenue records to the extent of Ac.16-70 cents. In this context, the petitioner submits that he submitted detailed objections to the respondents on 12.10.2017 and 13.10.2017 and it is his apprehension that his objections would not be taken into consideration, particularly, considering the political influence of the 6th respondent.

3) Learned Government Pleader for Land Acquisition opposes the Writ Petition and submits that the objections filed by the petitioner are

premature, as, at the stage of the proceedings under Section 11 of the Act, what all is to be considered is whether the land is to be exempted from the notification, for valid reasons to be recorded, in writing, and if so, the Collector may pass orders in terms of the proviso to Section 11(4) of the Act. He would also further assert that the objections, if any, to be filed with respect to the claims is at the stage of notice to be issued under Section 21 of the Act, but not at the stage of Section 11.

4) Considered the respective submissions. Earlier this Court had an occasion to deal with this aspect, in W.P.No.466 of 2018, wherein after analyzing all the provisions, it has been held that with respect to the rival claims, the stage at which the objections can be filed in response to the notification / notice is under Section 21 of the Act, as there is no scope of filing any objections under Section 11 of the Act except as provided therein i.e., where there are any special reasons requiring a particular piece of land to be exempted from the proceedings. It may also be noted that with respect to the suitability or otherwise of the land or with respect to the measurements etc., it is only at the stage of enquiry under Section 15 of the Act, a party will have a right to submit their objections.

5) In those circumstances, as rightly contended by the learned Government Pleader for Land Acquisition, the application filed by the petitioner is premature and is merely on an apprehension. Therefore, the Writ Petition is closed, giving liberty to the petitioner to take necessary steps, as and when situation warrants, in accordance with law, to protect his interest. No costs.

6) Consequently, Miscellaneous Petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM, J.

Date: 24.01.2018.
Ssv