

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.10883 OF 2007

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking verbatim the following relief:

“... to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in issuing the 4(1) Notification R.O.C.G4-1750/2007 dated 23.04.2007 is without jurisdiction contrary to Section 3 of A.P. Agricultural Land (Conversion for Non-Agricultural Purpose) Act, 2006, is highly arbitrary, malafide, politically motivated, discriminatory, violative of Articles 14, 21 and 300-A of the Constitution of India, illegal and unsustainable and pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.”

2. I have heard the submissions of *Sri C. Ramachandra Raju*, learned counsel, appearing for the petitioners and of the learned Government Pleader for Land Acquisition, appearing for the respondents. I have perused the material record.

3. The case of the petitioners and the submissions made on their behalf, in brief, are as follows:

“The petitioners are the owners and possessors of agricultural land admeasuring Ac.1-00 in Survey nos.50/12, 50/13, 50/14, 50/15, 50/16 and 50/17 of Yakamuru Village, Thotlavalluru Mandal, Krishna District. The said land was proposed to be acquired under Indiramma Housing scheme for providing house sites to the members of the weaker sections; and, a notification under Section 4 (1) of the Land Acquisition Act, 1894 (for brevity, ‘the Act’) was issued, on 23.04.2007, for acquisition of the said land. Section 3 of A.P. Agricultural Land (Conversion for Non-Agricultural Purpose) Act, 2006, prohibits use of agricultural land for

non-agricultural purposes without sanction of the competent authority. No such proceedings for conversion were issued before issuing the notification under Section 4 (1) of the Act. Therefore, the acquisition proceedings being contrary to law are liable to be quashed. Further, this Court admitted a batch of Writ Petitions and passed interim orders suspending 4 (1) notifications on the ground that such notifications cannot be issued for acquisition of the land without sanction of the competent authority and without conversion of agricultural land into non-agricultural land. The petitioners are having no land except the land above mentioned and their only source of livelihood is the income derived from the said agricultural land and they are small farmers. There is Government poramboke land admeasuring Ac.2-00 in the village. The respondents ought to have utilized the said land for providing house sites in case of any requirement. The 1st respondent for reasons best known has not chosen to acquire the lands of others at the instance of local politicians. The acquisition of the petitioners' land is a colourable exercise of power. The subject land is a low lying land and is not suitable for use as house sites. The declaration under Section 6 of the Act has not yet been published, but the respondents are making hectic efforts to take possession of the subject land. If possession of the subject land is taken, the petitioners suffer serious and irreparable loss. Hence, the Writ Petition is filed."

4. Counter is filed on behalf of the respondents justifying the notification issued under Section 4(1) of the Act and *inter alia* stating as follows: "The draft notification was published in the District Gazette, on 25.04.2007, and in the daily newspapers, on 02.05.2007. The substance of the notification was publicized in the locality, on 04.05.2007. Notices

were issued to the petitioners, on 01.05.2007, requiring them to attend an enquiry under Section 5-A of the Act, on 19.05.2007. The petitioners have not availed the opportunity and failed to file their objections. Therefore, it is deemed that they have no objection. Draft declaration under Section 6 of the Act was approved by the Collector, on 26.05.2007 and it was published in the Gazette, on 29.05.2007. The necessary publications were made in the daily newspapers, on 06.06.2007. And, the substance of the same was publicized in the locality, on 10.06.2007. At that stage, the petitioners filed the present writ petition and obtained interim orders not to dispossess the petitioners from the subject lands. In view of the interim orders of this Court, no further proceedings are undertaken and no award has been passed in respect of the subject lands. It is true that there is a Government land of an extent of Ac.2.00 cents available in the village. However, the said land is also being allotted to the beneficiaries under the said housing scheme. The allegations that there are other lands of rich landlords and that the said lands, which are of larger extents, are well suited for allotment as house sites are incorrect. The petitioners are also rich farmers. They own an extent of Ac.15.00 cents of land. The subject land is best suited for use as house sites than any other land available in the village. Hence, the said land is chosen for the desired purpose. The petitioners having not filed objections in response to the Notification issued under the Act are not entitled to seek any relief from this Court. Since the petitioners possess large extent of land, they do not suffer any hardship, if an extent of Ac.1.00 cents out of the said large extent is acquired under the Housing Scheme for providing house sites to the members of the weaker Sections. Hence, the writ petition may be dismissed.'

5. Learned Government Pleader, on written instructions, dated 13.04.2018, a copy of which is placed on record, while reiterating the contents in the counter affidavit, which are referred to supra, reiterated that the subject land is required for providing house sites to members of weaker sections, who filed representations in Janmabhoomi programme requesting to allot house sites to them.

6. Learned Government Pleader also submitted that in view of the interim orders of this Court, no further steps have been taken and that no award is passed and the possession of the subject land is not taken from the petitioners and that the petitioners are continuing in possession of the subject land.

7. Learned counsel for the petitioners would submit that at this distance of time, there is no possibility to complete 5A enquiry and comply with the requirement of publication of the declaration under Section 6 of the Act within the statutory period and that there is also no possibility to pass an award within the statutory time frame and that therefore, the acquisition proceedings lapsed and that the Government are now not continuing the Indiramma Housing Scheme and that in the event, the Government are still desirous are proceeding with the acquisition of the subject land for public purpose, the Government are required to follow the procedure under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. He, therefore, prayed for allowing the writ petition.

8. Learned Government Pleader submits that, at present, though the Government are not continuing Indiramma Housing scheme, the Government are implementing other housing schemes and that in the

event this Court is inclined to grant the relief to the petitioners, liberty may be reserved to the Government to acquire the subject land for the desired purpose or any other public purpose, in future, in accordance with the procedure established by law.

9. Having regard to the submissions and the undisputed facts & legal position, this Court is of the considered view that this Writ Petition can be disposed of with appropriate directions.

10. In the result, the Writ Petition is allowed as prayed for. It is needless to observe that if the Government are still desirous of acquiring the subject lands of the petitioners, in future, either for the originally intended purpose or for any other purpose, this order shall not preclude the Government from doing so, however, by following the procedure established by law.

There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

October 04, 2018
MD

M. SEETHARAMA MURTI, J