THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.484 OF 2007

ORDER:

This Writ Petition is filed seeking the following relief:

> " .... declaring the acquisition of lands of the petitioners of an extent of Ac.0.84 cents, in Sy.Nos.105/1A, an extent of Ac.0.07 cents and Ac.0.35 cents in Sy.No.105/1B, an extent of Ac.0.28 cents and Ac.0.90 cents in Sy.No.105/2A, an extent of Ac.0.50 cents in Sy.No.106/4A and an extent of Ac.0.92 cents in Sy.No.107/9B, situated in K.Gangavaram Village and Mandal, East Godavari District pursuant to the Notification issued under Sec.4 (1) of the Land Acquisition Act, dated 19.10.2006 and the proceedings of the 1st respondent in Ref:G3/5175/2006, dated 26.12.2006 as illegal, arbitrary and unjust and consequently direct the respondents to drop all further proceedings against the petitioners' land in this regard and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. Brief facts of the case are that the petitioners claim to be the owners and possessors of the land to an extent of Ac.0.84 cents in survey No.105/1A, Ac.0.07 cents in survey No.105/1B, Ac.028 cents in survey No.105/2A, Ac.0.90 cents in survey No.105/2A, Ac.0.27 cents in survey No.105/1B, Ac.0.27 cents, Ac.0.50 cents in survey No.106/4A, Ac.0.51 cents in survey No.107/9B, Ac.0.60 cents in survey No.107/9B respectively situated at K.Gangavaram Village, East Godavari District, having purchased the same under various sale deeds and the said lands are covered by coconut trees. The first respondent issued notification under Section 4 (1) of the Land Acquisition Act on 19.10.2006 proposing to acquire the land to an extent of Acs.3.86 cents belonging to the petitioners for providing house sites to weaker sections under 'Indiramma' scheme. In pursuance of the acquisition proceedings, as per the notices, the petitioners participated in 5-A enquiry and by proceedings dated 26.12.2006, the first respondent rejected the objection petitions upholding the acquisition proceedings under Section 5-A of the Land Acquisition

Act. Petitioners further state that the lands proposed for acquisition are agricultural lands covered by coconut garden, banana and coco mixed crop and except these lands the petitioners do not have any other lands and alternate lands are available for providing house sites to the weaker sections. Thus, questioning the acquisition proceedings and proceedings of the first respondent in Ref.G3/5175/2006 dated 26.12.2006, this writ petition is filed.

3. This Court, while admitting the writ petition, on 11.01.2007 granted interim stay of dispossession of the petitioners for a period of four weeks and the same was not extended thereafter. It appears that, no further proceedings have taken place to conclude the land acquisition proceedings, no award was passed and possession of the lands was not taken by the respondents.

4. Heard the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition.

5. Learned Government Pleader, based on the instructions received from the Revenue Divisional Officer, Ramachandrapuram, vide Ref.A(SWLA)1262/2006 dated 02.12.2017, would submit that after the interim orders were passed by this Court on 12.01.2014, which were in force only for four weeks, the Land Acquisition Officer, tendered 80% of the compensation to the land owners on 07.03.2007, but the land owners refused to take compensation. He further submits that the subject lands are still under the possession of the owners and the same are required for providing house sites to 203 beneficiaries.

6. During 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.

7. 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.

8. In the facts and circumstances of the case, the writ petition is allowed by setting aside the land acquisition proceedings impugned in this writ petition. It is needless to observe that allowing of the Writ Petition will not preclude the Government from acquiring the aforementioned lands of the petitioners, afresh under the provisions of Act 30 of 2013, in future either for original purpose or for any other purpose.

9. Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

(M.GANGA RAO, J)

1st February, 2018
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