

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.5741 OF 2007

ORDER:

The writ petition is filed to declare the action of the respondents in forcibly taking the possession of the land in an extent of Ac.33-00 cents in Sy.No.70, situated at Bethavole Village, Gudivada Mandal, Krishna District, pursuant to the Declaration issued under Section 6 of the Land Acquisition Act, 1894 (for short, Act of 1894), as illegal and arbitrary and consequently sought to set aside the Notification dated 15.03.1996 and Declaration dated 19.03.2006.

2. It is the case of the petitioners that the subject land is an inam land, belonging to one Sri Sevadas, having been granted the same in 18th century by the erstwhile rulers. Even before the subject land is given inam to the said Sri Sevadas, his ancestors were the occupants of the subject land. The ancestors of the petitioners are the occupants of the subject land from the last one-and-half century even before the inam was granted in favour of Sri Sevadas. While so, the fifth respondent filed a suit against the petitioners for eviction and the same was allowed. Challenging the same, the petitioners filed A.S.No.496 of 1963 and this Court by judgment dated 20.03.1971 allowed the same holding that the petitioners are the landholders. Challenging the said judgment, the fifth respondent filed SLP.No.122 of 1973 and the Apex Court dismissed the same by order dated 05.12.1987. While so, the respondents issued notification under Section 4(1) of the Act of 1894 on 15.03.1996 proposing to acquire the subject land, whereas

Section 6 notification was issued even before issuing Section 4(1) notification, which is contrary to the procedure. Thereafter, the respondents neither conducted any enquiry under Section 5(A) of the Act of 1894 nor taken the physical possession of the subject land from the petitioners.

3. It is represented by Mr.Y.Soma Raju, learned Assistant Government Pleader for Land Acquisition, that the subject land is quite necessary for acquisition for the purpose of allotting house site pattas to the weaker section people.

4. In view of the interim order granted by this Court dated 23.03.2007 which was extended from time to time, all further proceedings were stalled and the possession of the subject land is with the petitioners.

5. Under Section 11-A of the Act of 1894, if land acquisition proceedings initiated are not concluded in passing Award within two years, the notification issued becomes annulled. Therefore, the impugned notification in the present case is also annulled as the Award is not passed and the petitioners shall not be disposed from their lands. However, in the event of subject land being required in future for public purpose, the respondents shall initiate steps in accordance with law by following the procedure laid down under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. With the above observation, the writ petition is disposed of. As a sequel, the miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

T.AMARNATH GOUD, J

Date: 05-10-2018
TJMR

