

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.3519 OF 2007

ORDER:

This Writ Petition is filed seeking to declare the proceedings No.G4/380/2007 issued under Section 4 (1) of the Land Acquisition Act for acquiring the land of the petitioner admeasuring Acs.3.62 cents in survey No.33/3P situated at Chilakalapudi, Machilipatnam of Krishna District, (for short 'subject land'), as illegal and arbitrary.

2. Brief facts of the case are that the petitioner claims to be the owner and possessor of the subject land, which is an agricultural wet land. Notification under Section 4 (1) of the Land Acquisition Act was issued in RC No.G4/380/2007 dated 08.02.2007 intending to acquire land to an extent of Acs.40-60 cents including the subject land belonging to the petitioner for the purpose of providing residential plots to the weaker sections. Petitioner further states that in view of Section 3 of the Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purpose) Act 2006, no agricultural land shall be put to non-agricultural purpose without prior permission of the competent authority. He further states that abundant grama kantam land in survey No.49, which is abutting to subject land, is available and the same can be utilised for providing plots to weaker sections. Hence, questioning the 4 (1) notification, the present writ petition is filed.

3. This Court on 23.02.2007 while admitting the writ petition, granted interim stay of all further proceedings.

4. The respondents filed a counter affidavit denying the averments of the affidavit of the petitioner. It is further stated that the petitioner submitted his objections before the Land Acquisition Officer, however, without waiting for the decision of the District Collector on 5-A enquiry, the petitioner approached this Court. It is further stated that the alternative land suggested by the petitioner was already allotted to weaker section people and the allottees have also raised thatched houses and pucca houses in the said land. It is further stated that the respondents have followed due process of law and initiated land acquisition proceedings.

5. Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition.

6. Learned counsel for the petitioner submits that in view of the stay granted by this Court, no award was passed and the acquisition proceedings could not be concluded.

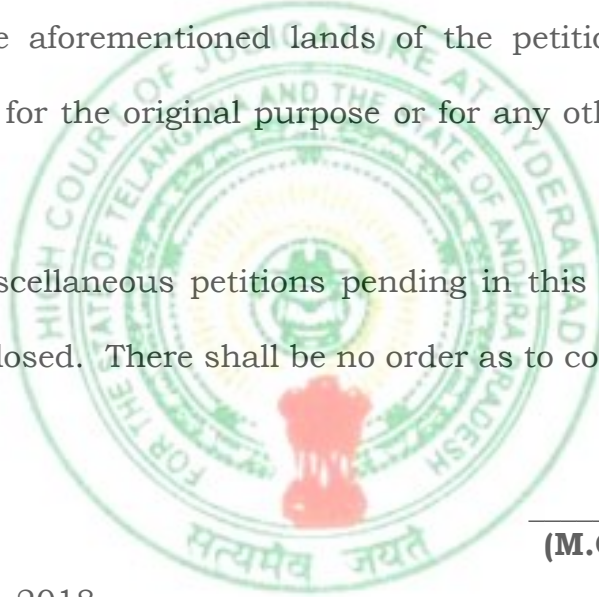
7. During pendency of the writ petition, the new Act i.e. The Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act 30 of 2013') came into force w.e.f.01.01.2014. As per Section 24(1)(a) of Act 30 of 2013, if the land acquisition proceedings 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.

8. 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.

9. 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 petitioner, afresh, in future either for the original purpose or for any other purpose. No costs.

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



(M.GANGA RAO, J)

29th January, 2018
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