

THE HON' BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.10644 of 2007

ORDER:-

This Writ Petition is filed to issue a Writ of Mandamus under Article 226 of the Constitution of India against the respondents to declare the notification issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') by respondent No.1 proposing to acquire the land an extent of Ac.1.80 cents belonging to the petitioner situated in Survey No.R.S.No.486/ 3b at K.S.Gattu Village, Attili Mandal, West Godavari District as arbitrary, illegal and in violation of Articles 14, 19(1)(g), 21 and 31 of the Constitution of India.

2. The case of petitioner is that she is the owner of agricultural land of an extent of Ac.1.80 cents situated at K.S.Gattu Village of Attili Mandal, West Godavari District. It is proposed by the Government to acquire the lands and issued a paper publication on 02.05.2007. It is submitted that the petitioner got the said land, which is agricultural land, through a Will dated 17.02.1997 executed by her husband, who died in the year 1997. Except the said land there is no other land to the petitioner to eke out her livelihood. It is further submitted that the said land is a paddy cultivating land and she is regularly paying the land revenue tax to the Government. Respondent No.1 issued the paper publication

under Section 4(1) of the Act proposing to acquire the petitioner's land of an extent of Ac.1.80 cents situated at K.S.Gattu Village, Attili Mandal, West Godavari District for the purpose of distribution of house sites and Section 5A enquiry was not conducted. A draft notification dated 28.04.2007 was published on 02.05.2007. When notification was published under Section 4(1) of the Act, the petitioner approached this Court by filing the present writ petition.

3. The respondents filed counter affidavit denying the averments of the Writ Affidavit.

4. On 23.05.2007, this Court granted interim order in W.P.M.P.No.13393 of 2007 staying of all further proceedings including a direction to the respondents not to dispossess the petitioner from her land notified for acquisition. Thereafter, no further proceedings had taken place as per the provisions of the Act. It appears that in view of the interim order passed by this Court, respondent No.2 could not able to pass the award.

5. Heard the counsel for both sides.

6. On the instructions received vide letter No.E.Office No.1137805/ 2017/ (C) dated 09.01.2018 of the Revenue Divisional Officer, Kovvur, the learned Government Pleader

for Land Acquisition (A.P.) submitted that an extent of land admeasuring Ac.1.50 cents in R.S.No.432/ 67A of K.S.Gattu Village was acquired for house sites as alternative and pattas were also distributed to the beneficiaries under the Indiramma Programme.

7. When the Writ Petition is pending before this Court, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act 30 of 2013') came into force with effect from 01.01.2014. As per Section 24(1)(a) of the Act 30 of 2013, if the land acquisition proceedings were initiated under the Act and no award under Section 11 of the 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 the Act 30 of 2013.

In the circumstances, this Writ Petition is allowed. It is needless to observe that allowing of the Writ Petition will not preclude the Government from acquiring the aforementioned land of the petitioner in future either for the original purpose or for any other purpose. No costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

M. GANGA RAO, J

29.01.2018
MVA

