

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.27039 of 2011

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed requesting to issue a writ of Mandamus or any other appropriate writ declaring the Draft Notification, dated 10.06.2008, *vide* Rc.no.4034/07-G2 under Section 4(1) of the Land Acquisition Act, 1894, and the consequential proceedings, dated 30.08.2011, *vide* Rc.no.4034/2007/G2, issued under Section 5 of the said Act by the 1st respondent-District Collector, Guntur District, rejecting the objections filed by the petitioners in respect of the lands in a total extent of Ac.8.70 cents situated at Chinnaravuru Village, Tenali Mandal, Guntur District, as illegal, arbitrary, *mala fide*, discriminatory, biased, unconstitutional, opposed to the principles of natural justice and violative of Articles 14, 19(1), 21 and 309 A of the Constitution of India and to declare the acquisition proceedings as null and void.

2. I have heard the submissions of *Sri D.Krishna Murthy*, learned counsel appearing for the petitioners and of the learned Government Pleader for Land Acquisition (AP), appearing for the official respondents. I have perused the material record.

3. The case of the writ Petitioners, in brief, is this:

The petitioners are permanent residents of Peddaravuru village of Tenali Mandal in Guntur District. They are all small marginal farmers owning small extents of lands mentioned *infra*.

Name of the petitioner	<u>Extent of land</u> Acs. Cents	Survey Numbers
Paladugu Ramachandra Rao	0.24 0.18	44/2A 45/1A
Paladugu Venugopala Rao	0.42	44/2A
Kodali Sivamallikamba	0.51 1.21 0.19 0.11 0.78	47/1 47/2 47/4B 47/7B 44/3
Vempati Kasturi	1.19 0.38 0.32 0.04 0.04	38/1 38/2A 38/3 53/1A 53/2
Gogada Sarada	0.60	53/1A
Gullapalli Aparna	0.54 0.12 0.04 0.19 0.19 0.19	53/2 53/3A 53/3B 53/4A 53/4B 53/1A
Vemuri Girija Devi	0.83	45/1

They are eking out their livelihoods by personally cultivating the above said respective lands. They do not own and possess any lands, except the above said lands respectively owned by them. The 7th petitioner got her land under a registered sale deed, dated 24.04.2007, executed by her father, late Paladugu Seetharamaiah. While so, initially the respondents proposed to acquire land of a total extent of Ac.68.10 cents in Chinnaravuru village for providing house sites in Tenali Town for construction of houses under 'Indiramma Housing Scheme'. Since objections were raised by some landowners claiming that they are small farmers, a revised Notification was issued for acquiring Ac.30.29 cents only after withdrawing Ac.38.00 cents from the proposed acquisition. A Draft Notification under Section 4(1) of the Land Acquisition Act, 1894, ('the Act', for brevity) was published in the Guntur District

Extraordinary Gazette, dated 10.06.2008. A publication was also made in 'VARTHA' Telugu daily Newspaper. Since the 7th petitioner got her extent of land under the Will aforesaid, her name does not find place in the Gazette. However, the testator, who is her father, has no other legal heir except the 7th petitioner. The subject lands are double crop wet lands abutting Krishna Canal. They are useful for raising commercial crops and paddy. Notices under Section 5-A of the Act were issued to the petitioners. The petitioners submitted objections specifically claiming as follows: 'They are small and marginal farmers and that they are eking out their livelihoods from the incomes derived from personal cultivation of their respective lands. Already a housing colony of the members of weaker sections of the society has come up in Tenali Town. The said colony is known as Chandrababu Naidu colony. Adjacent to that colony, vast lands are available for the purpose of proposed scheme. The said lands in Survey Nos.20, 24/2B, 26/2, 27/2, 28/1B, 31/2, 23/1, 27/1A, 28/1A, 31/3, 31/4 and 31/6 belong to rich people/landlords. The existing colony is having infrastructure and other facilities like roads, water, electricity, water etcetera.' Having thus raised the above and other objections, the petitioners requested the authorities to delete their subject lands from the proposed acquisition. However, the Land Acquisition Officer erroneously rejected the objections of the petitioners without properly appreciating and considering the same. Hence, the writ petitioners filed W.P.no.610 of 2009. On 22.01.2009, this Court passed interim orders directing the respondents not to dispossess the petitioners. Finally, the said writ petition was disposed of, on

06.04.2011, directing the respondents to conduct enquiry under Section 5-A of the Act and to consider the objections of the petitioners afresh and pass appropriate orders within eight weeks from the date of receipt of the said orders, that is, 06.04.2011. Persons, who are similarly placed as the petitioners and whose lands are also under acquisition, filed W.P.nos.16235 of 2008, 713 & 1134 of 2009. The said writ petitions were allowed, on 28.04.2011 relying upon the sketch prepared by Tahasildar, Tenali Mandal, as the sketch reflected that certain lands were deleted and that contiguity of the lands was lost and as acquisition of the lands around the agricultural lands is not feasible. It was also held in those writ petitions that the petitioners are small farmers and are dependent upon the lands proposed for acquisition, which are double crop lands irrigated through Krishna river water. After filing W.P.no.610 of 2009 by two aggrieved landowners, total extent of land of Ac.2.28 cents in Sy.nos.65/1 & 65/2 has been excluded from the very same notification, which is impugned in this writ petition. The petitioners are similarly placed and are entitled to the same relief and treatment on par with the writ petitioners in W.P.nos.16235 of 2008, 713 of 2009, 1134 of 2009 and W.P.no.613 of 2009. While so, the 1st respondent pursuant to the directions, dated 06.04.2011, of this Court in W.P.no.610 of 2009 called upon the petitioners to appear for a personal hearing, on 25.08.2011. The petitioners personally appeared and reiterated their stand and submitted their objections. Once again, the 1st respondent rejected the objections, by order, dated 30.08.2011. The said order was served on the petitioners, on 21.09.2011. The said order is a

routine order and the exercise of power is a colourable exercise of power. Non-consideration of the objections is nothing but *mala fide*, discriminatory, arbitrary, illegal and unconstitutional. The proposed lands, which are agricultural lands, are not converted into non-agricultural lands as required under A.P. Agricultural Land (Conversion for non-agricultural purposes) Act, 2006 (Act 3 of 2006). Hence, the impugned acquisition proceedings are liable to be declared as void and set aside.

4. The case of the respondents as stated in the counter affidavit of the 2nd respondent-Revenue Divisional Officer, Guntur, in brief, is this:

The Tahasildar, Tenali, proposed for acquisition, the land of an extent of Ac.68.10 cents in Sy.no.36/1A of Chinaraavuru village of Tenali Mandal, for provision of house sites to the persons of weaker sections under 'Indiramma Housing Programme'. After verification, draft notification proposal under Section 4(1) of the Act was submitted to the 1st respondent-District Collector, Guntur, for approval. Meanwhile, some of the ryots of Pedaravuru village started agitation before the Sub Collector's office, Tenali, with a request to delete their lands from the proposed acquisition on the plea that they are small and marginal farmers. They have also filed a grievance petition before the 1st respondent-District Collector, Guntur District, to exclude their lands from acquisition proposal. The 1st respondent has instructed to enquire about the financial status of all the ryots covered by the proposed acquisition. On the instructions of the 1st respondent to enquire and submit a revised proposal, the 3rd respondent-Mandal Revenue Officer,

Tenali, conducted an enquiry and submitted fresh draft notification proposal for Ac.36.48 cents, which land was not covered by the category of small and marginal farmers. Yet, some of the ryots gave their consent to part with the proposed acquisition on payment of land compensation @ Rs.18 lakhs per acre. Thus, draft notification proposed under Section 4(1) of the Act for Ac.36.46 cents was submitted to the 1st respondent-District Collector, Guntur, for approval. The same was approved for Ac.30.29 cents duly eliminating Ac.6.19 cents in Sy.no.61 and 64 (part) and a publication was made in Guntur District Gazette Extraordinary Local no.72, dated 13.06.2008, at page nos.5 to 9. The 1st respondent-District Collector authorized the 2nd respondent-Revenue Divisional Officer-cum-Land Acquisition Officer, Tenali, Guntur District, to perform the functions of the Collector under Section 5-A of the Act. Accordingly, notices, dated 09.07.2008, were issued calling for objections, if any, from the interested persons within 15 days from the date of service of notices. Opportunity was also afforded to appear personally at 11 AM, on 30.07.2018, and adduce oral & documentary evidence in support of the objections. Some interested persons filed their objections and some other persons filed consent statements to the proposed acquisition. The 3rd respondent-Mandal Revenue Officer, Tenali, by his proceedings, dated 02.09.2008, reported that during the enquiry, some of the landowners have given their consent to the proposed acquisition on payment of compensation @ Rs.18,00,000/- per acre. The then Tahasildar, after due enquiry into the objections filed by the interested persons, submitted his report, vide

Rc.no.1068/2007/D1, dated 17.09.2008. Some of the objectors approached the 2nd respondent and again filed their objections, on 03.10.2008. The said objections were also got enquired into. The 3rd respondent opined that the record of enquiry submitted earlier is final and that there is no need to consider the objections. The 2nd respondent then submitted record of enquiry together with draft notification proposal under Section 6 of the Act for Ac.29.89 cents as per the pre scrutinized sub division record *vide* Roc.no.2389/2007/A, dated 17.12.2008. On perusal of the enquiry record, the 1st respondent-Collector gave endorsement to the objectors, on 31.12.2008, and approved the draft declaration proposal, *vide* Procdgs.Rc.no.4034/2007/G2, dated 31.12.2008. Some of the landowners filed writ petition challenging the orders of the Collector, Guntur, under Section 5-A of the Act, though some of the landowners came forward to part with their lands and for passing a consent award. The matter has been finalized by the District Level Negotiation Committee and consent award no.7 of 2009, dated 13.02.2009, covering an extent of Ac.12.42 cents in Sy.no.47-4B1 of Chinaravuru village was passed. This Court allowed W.P.nos.16235 of 2008, 713 & 1134 of 2009 and quashed the acquisition proceedings to an extent of Ac.6.38 cents owned by the petitioners, on 28.04.2011. This Court passed orders in W.P.nos.610 & 613 of 2009, on 06.04.2011, setting aside the acquisition proceedings, dated 31.12.2008, and remanded the matter to the Collector, Guntur, with a direction to consider the objections of the petitioners and pass orders afresh. In obedience to the said orders of

this Court in W.P.nos.610 & 613 of 2009, dated 06.04.2011, the 1st respondent-District Collector gave notices to the landowners requesting them to attend, on 25.08.2011, at 4 PM for enquiry. The landowners, who received the said notices, attended before the 1st respondent and filed objections and requested to exclude their lands from acquisition. After verification of the record of enquiry under Section 5-A of the Act and the objections raised by the objectors during enquiry, on 25.08.2011, the Collector, Guntur, passed orders and gave an endorsement to the objectors *vide* Rc.no.4034/2007/G2, dated 30.08.2011, informing that certain lands are decided to be excluded from the proposed acquisition and that it is decided to continue the acquisition proposal for the remaining extent of land of Ac.8.30 cents, which belonged to the petitioners in W.P.no.610 of 2009 as the land in question is abutting to the land, which was already acquired in consent award no.7 of 2009, dated 13.02.2009. Aggrieved thereof, the present writ petition is filed. Hence, the contentions in the writ petition need no consideration. The 1st respondent conducted enquiry, as per the orders of this Court by giving an opportunity of personal hearing to the objectors, on 25.08.2011, and passed orders, on 30.08.2011. The Collector passed orders for continuation of the proposed acquisition of land to an extent of Ac.8.30 cents, which belonged to the petitioners in the writ petition. In the circumstances stated, an endorsement was also given to the petitioners. The contention that the order of the District Collector was a routine order and was passed in colourable exercise of power is far from truth. After careful examination of the records, the Collector has

decided to continue the land acquisition proceedings in respect of Ac.8.30 cents which belonged to the petitioners. The proposed acquisition is for a public purpose. After acquisition of the land, the classification will be changed as 'House Site Poramboke'. A.P. Agricultural land (conversion for non agricultural purpose) Act, 2006 is not applicable to the case on hand. The subject land, which is proposed for acquisition, is abutting to the land already acquired land of Ac.12.42 cents covered by the same notification and it is more useful for purpose of provision of house sites. The Government has decided to construct 'G+3 pattern' under 'House for All Scheme, 2015-2016,' and sanctioned 1152 houses to the persons of Tenali Municipality and the land acquired earlier to an extent of Ac.12.42 cents has been handed over to the Housing Department for construction of houses to benefit more beneficiaries. Hence acquisition of the proposed land is pending.

5. A reply affidavit is filed by the 2nd petitioner on behalf of the petitioners alleging *inter alia* as follows: "The respondents acted in an arbitrary and discriminatory manner in deleting the lands of influential people from acquisition according to their whims & fancies. The lands proposed for acquisition are scattered bits and are not feasible for acquisition for the purpose of providing house sites. If the lands of the petitioners are acquired, they will be deprived of their livelihood. The petitioners never gave consent for acquisition of their lands. The 1st respondent-District Collector rejected the objections raised by the petitioners without any application of mind. The petitioners are small

farmers and their lands cannot be acquired. Hence, the proposed land acquisition proceedings are illegal and are liable to be set aside.’

6. Learned Government Pleader also placed on record a copy of the written instructions, dated 25.09.2018, and submitted that acquisition of land is highly necessary for provision of house sites with G+3 mode of group housing to saturate the houseless population covered by “Praja Sadhikarika Survey.”

7. On 28.09.2011, this Court, while admitting the Writ Petition, granted the following interim order in W.P.MP.No.33406 of 2011:

“*Status quo* obtaining as on today with regard to possession of the land in question shall be maintained for a period of four weeks from today.”

The above said interim order is being extended from time to time.

8. At the hearing, learned counsel appearing for the petitioners and the learned Government Pleader advanced arguments in line with the respective pleadings of the parties.

9. Initially, the respondents proposed to acquire land of a total extent of Ac.68.10 cents in Chinaravuru village for providing house sites in Tenali Town for construction of houses under ‘Indiramma Housing Scheme’. Since objections were raised by some landowners claiming that they are small farmers, a revised Notification was issued for acquiring Ac.30.29 cents only, after withdrawing Ac.38.00 cents from the proposed acquisition. Though a draft notification was proposed for

Ac36.48 cents, a Draft Notification under Section 4(1) of the Act was published was approved for Ac.30.29 cents and was published in the Guntur District Extraordinary Gazette, dated 10.06.2008. A publication was also made in 'VARTHA' Telugu daily Newspaper. The 1st respondent-District Collector, Guntur, authorized the 2nd respondent-RDO, Tenali, to perform the functions of the Collector under Section 5-A of the Act. Pursuant to the notification, notices under Section 5-A of the Act were issued on 09.07.2008, to the petitioners calling upon objections, if any, within fifteen days. The petitioners submitted their objections specifically claiming that they are small and marginal farmers and pleading that vast land of rich people and landlords is available adjacent to their lands. The then Tahasildar, Tenali, reported that during the enquiry, some of the land owners have given their consent to the proposed acquisition on payment of compensation @ Rs.18,00,000/- per acre. The 2nd respondent submitted the record of enquiry together with draft declaration proposal under Section 6 of the Act for Ac.29.89 cents. Thus, no enquiry as envisaged under law was conducted by the RDO and ultimately the Tahasildar conducted the enquiry and the RDO submitted the record of enquiry to the District Collector. After perusal of the record of enquiry, the District Collector, Guntur, has given endorsement to the objectors, on 31.12.2008, and approved the draft declaration proposal, *vide* Rc.no.4034/2007/G2, dated 31.12.2008. Some of the landowners filed writ petitions to the proposed acquisition. A batch of writ petitions were allowed on the grounds that some of the land owners are marginal or small farmers and that they depend upon

their small extents of lands for their survival/livelihoods and with the deletion of certain extent of land the contiguity is lost. Two aggrieved landowners also filed a writ petition; afterwards, another extent of Ac.2.28 cents in Sy. Nos. 65/1 & 65/2 was also excluded. Be that as it may. The 1st respondent/District Collector admittedly authorized the 2nd respondent/RDO to perform the functions under section 5 A of the Act. Notices were issued. On filing of the objections at the first instance by the petitioners, the 3rd respondent/Tahasildar conducted the enquiry and the RDO/2nd respondent submitted the record of enquiry with a report overruling the objections of the petitioners to the 1st respondent-District Collector. The same was simply endorsed by the 1st respondent/District Collector. Eventually it appears that on consent of some of the land owners a consent award no. 7 of 2009 was passed for Ac.12.47 cents of land in S.No.47-4B1A, with which the petitioners are now not concerned. It is urged on behalf of the petitioners that the Land Acquisition Officer – RDO is not competent to issue such a notice and conduct enquiry under Section 5A of the Act. In view of the said contention, it is necessary to refer to Section 3(c) of the Act, which reads as under:

“the expression “Collector” means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the functions of a Collector under this Act.”

Further, Section 3-A of the Act, as amended by the State of A.P. [Act 22 of 1976], which deals with delegation of functions, reads as under:

“Delegation of functions: The State Government may, by notification in the Andhra Pradesh Gazette, direct that any power conferred or any duty imposed on them by this Act, shall in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised or discharged by the District Collector.”

In view of the above provisions of law, it is undisputed that the power of delegation is not with the Collector; that the State Government has to discharge the function of delegation by issuing a notification in the Gazette; and, that on such delegation only, the delegated authority can exercise and discharge the functions, which are to be discharged by the District Collector. In the case on hand, admittedly, there is no notification by the State Government delegating the powers of the Collector to the RDO. However, RDO was directed by the Collector to conduct the 5A enquiry by exercising the powers of Collector without any authority conferred upon him by a notification of the State Government. It is hence, contended that on this ground alone, the acquisition proceedings, which are illegal, are liable to be set aside. Suffice if it is noted that this contention of the petitioners merits consideration. Be that as it may. The petitioners filed W P No. 610 of 2009. This Court disposed of the said writ petition and WP No.613 of 2009, on 06.04.2011, directing the 1st respondent to consider the objections afresh and pass appropriate orders. Pursuant to the directions of this Court, dated 06.04.2011, the 1st respondent called upon the petitioners to appear for a personal hearing, on 25.08.2011. The petitioners personally appeared and reiterated their stand and requested

for exclusion of their lands from acquisition. However, by orders, dated 30.08.2011, the 1st respondent once again rejected the objections and the petitioners were *inter alia* informed that it is decided to continue acquisition proceedings for the remaining extent of Ac8.30cents of land as the said land was adjacent to the land in respect of which a consent award was passed.

10. According to the petitioners, they submitted detailed objections; but, they were not afforded a reasonable opportunity of personal hearing and that there was no effective hearing on their objections and they were denied a valuable right to substantiate their objections. However, learned Government Pleader submits that after the orders of this Court in the earlier writ petitions, notices were again issued under Section 5A of the Act asking the petitioners to submit their objections and to attend the enquiry and that all objections were got enquired into. The petitioners gave details of the small extents of their lands, while stating that they are small/marginal farmers and that their lands are not liable for acquisition and further furnished the details of the lands with survey numbers of other rich lands, which are suited for acquisition for use as house sites, but, the 1st respondent/District Collector did not at all consider the said aspects is the grievance of the petitioners. One of the vital contentions is that the lands now being proposed for acquisition are scattered bits and that with deletion of certain extents from the originally proposed large extent, there is no contiguity. They also submit that no fresh enquiry was conducted and that the 1st respondent/District Collector simply went by the earlier enquiry report of the Tahasildar who

is incompetent to conduct enquiry and that there is colorable exercise of power.

11. It is pertinent to note that Sub-Section (2) of Section 5A of the Act makes it obligatory on the Collector to give an objector an opportunity of being heard. After hearing of the objections and making further inquiry, he has to make a report to the appropriate Government containing his recommendations on the objections. The hearing contemplated under the said provision of law is necessary to enable the Collector to effectively deal with the objections raised against the proposed acquisition and to make a report. The enquiry and the report of the Collector are not empty formalities, as the Collector is required, by his report, to notify the appropriate Government his recommendations. It is only upon receipt of the said report that the Government can take a final decision on the objections and make a declaration under Section 6 of the Act. As contemplated under law, at the time of hearing, the objector can make an effort to convince the Land Acquisition Officer to make recommendations against the acquisition. Further, the objector can produce evidence to show that suitable piece of Government land is available and the same can be utilized for the desired project or scheme. Therefore, the Collector is required to give an opportunity of hearing to the objectors and objectively consider their pleas against the acquisition of their lands. Only thereafter, the Collector should make recommendations supported by brief reasons as to whether the land proposed should be acquired or not and whether or not the plea put forward by the objectors merits

acceptance or not. The hearing contemplated under the provision of law must be effective and it is not an empty formality. Any recommendation made by the Collector, without duly considering the objections of the objectors and the submissions made at the hearing, will denude the decision of the appropriate Government of statutory finality, is the settled legal position. In the decision in **Hindustan Petroleum Corporation Limited v. Darius Shapur Chennai and others**¹ the main question which fell for its consideration was whether the objections raised by the appellant objecting to the acquisition of land on various grounds have been considered by the Government. The Supreme Court while emphasizing the importance of hearing under section 5 A of the Act held as follows:

It is trite that hearing given to a person must be an effective one and not a mere formality. Formation of opinion as regard the public purpose as also suitability thereof must be preceded by application of mind as regard consideration of relevant factors and rejection of irrelevant ones. The State in its decision making process must not commit any misdirection in law. It is also not in dispute that Section 5-A of the Act confers a valuable important right and having regard to the provisions, contained in Article 300A of the Constitution of India has been held to be akin to a fundamental right.

The State Government had directed in memo no.1287, dated 31.03.1974, as amended by memo no.5814/C1/77-3, dated 29.09.1977, that 'the lands belonging to poor persons with meager land holdings (not

¹ 2005 (7) SCC 297

more than Ac.2.00 – Ac.2.50 cents) should not be acquired unless otherwise inevitable for the purpose of maintaining proximity and vicinity to the main village and contiguity of the lands. In the decision in **State of Punjab v. Gurdial Singh**², of the Supreme Court. At paragraph 16 of the cited decision, it was held as follows:

“16. ... it is fundamental that compulsory taking of a man's property is a serious matter and the smaller the man the more serious the matter. Hearing him before depriving him is both reasonable and pre-emptive of arbitrariness, and denial of this administrative fairness is constitutional anathema except for good reasons.”

The settled legal position thus emphasizes the importance of the enquiry under Section 5A of the Act which is to be conducted by the Collector unless delegated by a notification of the State Government to the RDO. In the case on hand, since the Collector has not conducted any independent enquiry and did not examine the objections of the petitioners independently by making necessary verification of the records or by making a filed inspection of the lands, the details of which were furnished by the petitioners and as the Tahasildar who conducted the first enquiry, is not enjoined with such function by a necessary notification of the State Government, it can be said that the enquiry conducted in the case on hand has no statutory sanction. There is no material placed on record to substantiate the theory that the petitioners herein own any other extents of lands other than the subject lands, which are the subject matter of the proposed acquisition. No details of

² (1980) 2 SCC 471

the other lands of the petitioners, if any, are furnished to show that they are rich land lords and that, therefore, their subject lands can be acquired. Why it has become necessary to acquire small extents of wet lands of small farmers having Krishna river water as source for cultivation remains unexplained. Even though an enquiry was conducted by the 1st respondent/District Collector it is borne out by record that no effective opportunity of hearing was provided to the petitioners to substantiate their objections and the 1st respondent/District Collector eventually failed to effectively deal with the objections. No findings are recorded independently by the 1st respondent/District Collector on the various objections raised by the petitioners. From the facts of the case it is discernable that the objections of the petitioners are not considered and are simply brushed aside by stating that acquisition of the lands of the petitioners is necessary as the said land is adjacent to the land in respect of which a consent award was passed. It is to be noted that the consent of the 3rd parties is not binding on the present petitioners. No reasons are forthcoming as to why the administrative instructions in the Government Orders are not followed, though the 1st respondent-Collector, who is acting as a delegate under the powers of the Government, is bound to follow the said instructions, which partakes the character of *quasi* legislation, which the Government are entitled to issue. The said instructions confer important rights on the petitioners protecting their properties and prohibiting the authorities from acquiring their lands, unless inevitable and the conditions are fulfilled. Therefore,

this Court finds that for not following the Government instructions, which are binding, and for not considering the objections of the petitioners in an effective and objective manner by the 1st respondent-Collector, the acquisition proceedings are vitiated. As a sequel, this Court finds that the petitioners are entitled to the reliefs claimed in the writ petition.

12. In the case on hand the extent of lands held by the petitioners are small extents. When some similarly placed ryots/land owners approached this Court for exclusion of their small extents of lands from the very same notification for acquisition, this Court granted them relief having found that with the deletion of certain extent of land from the proposal for acquisition at the instance of some ryots, who raised agitation, there was no contiguity and that the said land owners/writ petitioners are small farmers and that they depend on their lands, which are proposed for acquisition, for their lively hoods and that the said lands are double crop wet lands irrigated through Krishna River waters. In the facts and circumstances of the case, this Court finds that the petitioners are also entitled to the same relief as was granted to the said other similarly placed ryots.

13. Learned Government pleader submitted that in view of the orders of stay granted by this Court, the respondents could not take further steps in the matter and that hence, no award is passed and that the possession of the subject lands is continuing with the petitioners. In view of the above said facts and the further fact that the Government

are now not continuing with the 'Indiramma Housing Programme' and that new housing schemes for members of weaker sections of society are in place, the learned counsel for the petitioners submits that the Government are required to re-consider as to whether the property in question is required at present for acquisition or not, and hence, the writ petition may be allowed leaving it open to the Government to initiate fresh proceedings for acquisition, if the Government are still desirous of acquiring the subject lands for providing house sites or for any other public purpose.

14. On the above analysis and for the reasons afore-stated, this Court finds that the petitioners made out valid and sufficient grounds for granting the reliefs prayed for in the writ petition. For all the above reasons, this Court finds that the Writ Petition deserves to be allowed.

15. Accordingly, the Writ Petition is allowed directing the respondents to drop all further proceedings pursuant to the notification under Section 4 (1) of the Act insofar as the subject lands of the petitioners are concerned. It is needless to observe that if the Government are still desirous of acquisition of the subject lands of the petitioners either for originally intended purpose or any other purpose, this order shall not preclude the Government from doing so 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.

M. SEETHARAMA MURTI, J

06th December, 2018
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