

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.16400 OF 2007

ORDER:

This Writ Petition is filed to declare the action of the first respondent in issuing notification under Section 4 (1) of the Land Acquisition Act for acquiring the lands of the petitioner admeasuring Ac.0.22 cents in survey No.83/1 and admeasuring Ac.0.69 cents in survey No.83/2 (total 91 cents) of Nadupalli Village, Peravali Mandal, West Godavari District, (for short 'subject lands'), as illegal and arbitrary.

2. Brief facts of the case are that the petitioner claims to be the owner of the subject lands. Notification under Section 4 (1) of the Land Acquisition Act was published by Government of Andhra Pradesh in ROC No.S.W/234/2007 dated 06.02.2007 proposing to acquire the lands of the petitioner for the purpose of providing house sites to poor people. The petitioner also submitted his objections through his counsel. Petitioner further states that the acquisition proceedings were initiated at the instance of the 3rd respondent-Mandal Revenue Officer, against whom the petitioner and his wife filed O.S.No.77 of 2001 and 79 of 2001 before the Principal Junior Civil Judge, Tanuku, when the third and first respondents tried to cover the petitioner's lands for levy of water cess. Petitioner further submits that by excluding the neighbouring lands, the acquisition proceedings were issued only in respect of the petitioner's land without considering his objection that he is a small farmer and acquisition of his lands would deprive him of his livelihood. Hence, the petitioner approached this Court.

3. This Court on 05.11.2007 admitted the writ petition. However, no interim order was passed in favour of the petitioner.

4. The respondents filed a counter affidavit denying the averments of the affidavit of the petitioner. It is further stated that the objections raised by the petitioner were considered and rejected as untenable and 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 this case, no award was passed and no possession was taken by the respondents.

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 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.

19th January, 2018
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(M.GANGA RAO, J)