

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.13999 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.0.50 cents in survey No.33/2C of Golugondapeta Village, Nathavaram Mandal, Visakhapatnam District, (for short 'subject land'), as illegal and arbitrary.

2. Brief facts of the case are that the petitioner claims to be the owner of the subject land. Notification under Section 4 (1) of the Land Acquisition Act was published by Government of Andhra Pradesh at Issue No.31/07 on Part-I of A.P. District Gazettee dated 18.04.2007 acquiring the lands of the petitioner and other farmers for the purpose of providing house sites to the weaker sections for construction of Indiramma Houses. The petitioner also submitted his objections and an enquiry under Section 5A was conducted wherein the contention raised by the petitioner that he is a small farmer depending on agricultural income was rejected. Aggrieved by the same, petitioner approached this Hon'ble Court.

3. This Court on 03.07.2007 while admitting the writ petition granted interim stay of all further proceedings including dispossession of the petitioner from the subject land.

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, in view of the interim stay granted by this Court, 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. 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.

(M.GANGA RAO, J)

19th January, 2018
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