THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.12160 OF 2007

ORDER:

This Writ Petition is filed seeking to declare the action of the respondents in not considering the representation of the petitioner dated 28.12.2006 to re-convey the land admeasuring Ac.0.52½ cents situated in survey No.310/1(A2) of Tadepalli Village and Mandal of Guntur District, as illegal, arbitrary and violative of Articles 14 and 300A of Constitution of India.

Brief facts of the case are that the land to an extent of Acs.5.33 cents situated in survey Nos.310/1A1, 311, 312/1A1 and 321/1A1 of Tadepally Village and Mandal was acquired for the purpose of expansion of Indian Oil Corporation at Tadepally Village i.e. 4th respondent herein. A notification under Section 4 (1) of The Land Acquisition Act, 1894 (for short 'the Act') was published on 22.07.1985. Draft declaration under Section 6 of the Act was approved on 04.10.1985 and enquiry under Section 5A of the Act was conducted. As no objections were received, notices under Sections 9 (1) and 10 & 9 (3) and 10 of the Act were issued to the land owners and award enquiry was conducted on 15.05.1986. The District Collector accorded permission on 19.09.1986 for passing of the award under Section 11 (1) of the Act. While things stood thus, the petitioner filed W.P.No.4657 of 1986 before this Court wherein this Court in WPMP No.6408/1986 granted interim stay of dispossession. In such a situation, Award No.16/1986 was passed on 30.09.1986 excluding the land of the petitioner to an extent of Ac.0.50 cents from acquisition and award was passed only in respect of the land to an extent of Acs.4.83 cents fixing the

market value of the lands @ Rs.50,000/- per acre. Subsequently, W.P.No.4657 of 1986 was dismissed on 08.04.1987 and the further writ appeal in W.A.No.661 of 1987 was also dismissed. After dismissal of the writ petition and writ appeal, a notification under Section 4 (1) of the Act was issued in respect of petitioner's land to an extent of Ac.0.50 cents in survey No.310/1A2 of Tadepalli Village and Mandal. Notices under Sections 9 (1) and 10 & 9 (3) and 10 of the Act were served on the petitioner and award enquiry was conducted on 24.12.1991. One Mr.Donthi Reddy Venkat Reddy claimed right over the land stating that he purchased the land through registered document No.2886 dated 07.08.1985 and requested to pay compensation @ Rs.3 lakhs per acre, but he failed to produce documentary evidence proving his title to the land. Hence, the compensation of Rs.40,250/- (fixing the market value @ Rs.50,000/- per acre) awarded in Award No.6/1992 dated 19.10.1996 in respect of petitioner's land was deposited in Civil Court duly referring the matter to Civil Court under Section 30 of the Act. Thereafter, the petitioner sought reference under Section 18 of the Act on 01.10.1986 and approached this Court in W.P.No.19352 of 2004 seeking a direction to authorities to refer her application for adjudication under Section 18 of the Act. On 28.06.2012, this Court dismissed the said writ petition stating that the writ petition lacks in material facts and reference was not sought within the period of limitation. Subsequently, the petitioner filed representation seeking re-conveyance of the land on the ground that the same was not utilized for the purpose for which it was acquired.

The 3rd respondent-Land Acquisition Officer filed a counter affidavit and not denied the material averments of the writ petition.

The 4th respondent, the requisition department, Indian Oil Corporation Limited, Vijayawada, filed a counter affidavit denying the contentions of petitioner that the land is kept vacant and not utilized for the purpose for which it was acquired. It is averred that the land was developed by filling the earth and constructing a compound wall in the year 2000-2001. Further, a Staff Amenities Room was proposed to be constructed in the said acquired land for which purpose administrative approval was obtained for Rs.30 lakhs and IR No.4903065 dated 15.05.2007 was obtained for Rs.10 lakhs. It is specifically averred in the counter that the land acquired from the petitioner is very much required for the activities of the Indian Oil Corporation Limited and the petitioner having received the compensation for the acquired land and having initiated steps for enhancement thereof, cannot seek re-conveyance of the land. The petitioner has no right to seek re-surrender of her land on any ground. It is asserted that the 4th respondent is in occupation of the acquired land and utilizing the same. Hence, prayed to dismiss the writ petition.

Heard both sides and perused the material on record.

Learned counsel for the petitioner would contend that initially notification under Section 4 (1) of the Act was issued and published on 22.07.1985 for acquisition of the lands to an extent of Acs.5.33 cents in survey Nos.310/1A1, 311, 312/1A1 and 321/1A1 of Tadepally Village and Mandal and a draft declaration under Section 6 of the Act was also approved on 04.10.1985. However, in view of the interim stay of dispossession granted by

this Court in WPMP No.6408/1986 in W.P.No.4657 of 1986 filed by the petitioner, Award No.16/1986 was passed on 30.09.1986 excluding the land of the petitioner and the award was passed only in respect of Acs.4.83 cents. Thereafter, on dismissal of the writ petition by this Court, the petitioner preferred Writ Appeal No.661 of 1987 and the same was also dismissed. Pursuant thereto, the authorities also acquired the land of the petitioner after following due procedure. In view of claim made by one Donthi Reddy Venkat Reddy, the compensation amount was deposited in Civil Court referring the matter to Civil Court. In spite of acquiring the land of the petitioner long back, the requisition department has not utilized the acquired land for the purpose for which it was acquired. Hence, the petitioner filed a representation seeking re-conveyance of the land. Seeking in action to deal with said representation, the present writ petition came to be filed.

Learned Government Pleader for Land Acquisition while narrating the facts of the case in brief would contend that after the matter was referred to Civil Court under Section 30 of the Act and compensation was deposited in the Civil Court, the petitioner filed W.P.No.19352 of 2004 seeking a direction to the authorities to refer her application for enhancement of compensation for adjudication under Section 18 of the Act. However, the said writ petition was dismissed by this Court rejecting the request of the petitioner. At that stage, the petitioner filed the representation seeking re-conveyance of the land on the ground that the same was not utilized for the purpose for which it was acquired. Hence, no relief can be granted to the petitioner herein.

Learned counsel appearing for the 4th respondent-Corporation would contend that the land acquired from the petitioner was not utilized by the 4th respondent is incorrect and in fact proposals were sent for construction of a Staff Amenities Room in the said land and administrative sanction was also accorded for Rs.30 lakhs. He would further contend that presently the land acquired from the petitioner is being utilized for parking purpose. Hence, the request of the petitioner for re-conveyance of the land on the ground that the land is not being utilized, cannot be considered.

Learned counsel for the petitioner filed additional material papers in I.A.No.1 of 2018 in support of his contention that the land acquired from the petitioner is kept vacant and unutilized by the requisition department.

However, the said contention was denied by the requisition department-4th respondent stating that the Corporation is very much in need of the said land. In that view of the matter, the contention of the petitioner that the acquired land was kept vacant, not utilized and not required by the 4th respondent could not be countenanced. Further, as seen from the penultimate paragraph of the communication dated 16.12.2016 made by the Revenue Divisional Officer, Guntur, to the Collector & District Magistrate, Guntur, which is filed along with material papers in I.A.No.1 of 2018 by the writ petitioner, it is evident that recently the bushes were cleared and the land is being utilized as parking place. The statement of the Revenue Divisional Officer negatives the contention of the petitioner's counsel that the land acquired from the petitioner is not required by the 4th respondent. The

learned counsel for the petitioner emphatically argued for re-conveyance of the land and for the said purpose placed her reliance on the provision of Section 101 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. But, the said provision is applicable only to the lands acquired under the provisions of the said Act but not to the acquisitions made under the provisions of The Land Acquisition Act, 1894. Further, as per the decision of the Supreme Court in ***Govt. of A.P. and another vs. Syed Akbar***[1] once land is acquired, it vests in Government free from all encumbrances and the unutilized land cannot be re-conveyed or re-assigned to the erstwhile owner. In view of the same and for the reasons stated above, the request of the petitioner for re-conveyance cannot be considered. Hence, I see no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed.

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

(M.GANGA RAO, J)

13th March, 2018
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[1] AIR 2005 SC 492