

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.5852 OF 2006

ORDER:

This writ petition is filed challenging the notification in Rc.No.G3/4413/2005, dated 11.03.2006, issued by the first respondent under Section 4(1) of the Land Acquisition Act, 1894 (for short, the Act), proposing to acquire lands in an extent of Ac.20-11 cents in Sy.Nos.608 and 609 of K.Rajupalem Village, Ulavapadu Mandal, Prakasam District.

2. It is the case of the petitioners that they are the owners and possessors in respect of subject lands and their lands are covered by mango and sapota topes, aged about 30 years. While so, the respondents, invoking the urgent clause under Section 17(4) of the Act, issued notification under Section 4(1) of the Act for acquiring the subject lands for providing house site pattas for weaker sections.

3. Heard Sri S.Ramachander Rao, learned Senior Counsel representing Sri K.R. Prabhakar, learned counsel for the petitioners and Sri Y.Soma Raju, learned Assistant Government Pleader.

4. The learned Assistant Government Pleader vehemently argued and prayed to dismiss the writ petition.

5. At the time of hearing, the learned Assistant Government Pleader placed on record a letter in Rc.DT/1138/2015, dated 20.12.2017, addressed to the Government Pleader (Land Acquisition), High Court, wherein

the Tahsildar, Ulavapadu Mandal, stated that the subject land is essential to the Scheduled Caste people of Kollurupadi, H/o. K.Rajupalem Village, Ulavapadu Mandal, whose houses were inundated due to over flow of Manneru river on account of heavy rain fall during the year 2005. This reason cannot be accepted and appreciated, as the cause of action which is said to have taken place in the year 2005, now cannot be taken as a fresh cause of action by the respondents to extend the benefit by taking away the lands of the petitioners.

6. The respondents are not justified in their action for invoking the urgency clause and also they have not given any cogent reasons for the purpose of cutting the age old mango and sapota topes/garden. The respondents have also not stated in their counter about the steps taken for identifying the alternative lands to allot in favour of the weaker sections. The Government ought to have taken steps for identifying vacant lands instead of acquiring the lands of the petitioners.

7. With the above observation, the writ petition is allowed, setting aside the notification in Rc.No.G3/4413/2005, dated 11.03.2006, issued by the first respondent under Section 4(1) of the Land Acquisition Act, 1894. No costs. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 20.07.2018
TJMR