

HON' BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No. 10101 of 2007

ORDER:

The writ petition has been filed by the petitioners seeking *Mandamus* to declare the draft declaration notification bearing Proceedings in Roc.No.3795/ 2006, dated 18.04.2007 published in Andhra Jyothi dated 26.04.2007 proposing to acquire the agricultural lands of the petitioners admeasuring Ac.0.84 cents situated in Sy.No.298/ B, Ac.0.25 in Sy.No.297/ 2E, Ac.0.24 in Sy.No.297/ 2F, Ac.0.06 in Sy.No.299/ A and Ac.2.08 cents in Sy.No.299/ B respectively of Pedda Eetupakam Village, Satyavedu Mandal, Chittoor District as illegal and arbitrary.

2. The crux of the case are that all the petitioners are owners and possessors of their respective agricultural lands situated in Pedda Eetipakam Village, Satyavedu Mandal, Chittoor District and that in the land of the 1st petitioner there was a weigh bridge and in the lands of the 2nd and 3rd petitioners there were teak plantations and the details are as follows:

	Survey No.	Extent
1 st petitioner	298/ B	Ac.0.84 cents
2 nd petitioner	297/ 2E 297/ 2F	Ac.0.25 cents Ac.0.24 cents
3 rd petitioner	299/ A 299/ B	Ac.Ac.0.06 cents Ac.2.08cents

on 21.03.2006 the Government has issued a Notification under Section 4(1) of the Land Acquisition Act (for short 'the Act') proposing to acquire their lands for formation of Special Economic Zones (SEZ) by the 4th Respondent authorities and that without conducting any enquiry or giving any opportunity to the petitioners, the respondents have illegally and arbitrarily issued the draft declaration under Section 6 of the Act. Questioning the same, the present writ petition is filed.

4. Heard the learned counsel for the petitioners and the learned Government Pleader appearing for the respondents.

5. I have perused the material on record.

6. As seen from the record, on 09.05.2007 this Court, while admitting the writ petition, granted interim stay of all further proceedings including dispossession of the petitioners from the lands. Thereafter, no further acquisition proceedings were taken up to conclude the award and payment of compensation. In view of the interim directions passed by this court, the petitioners are in possession and enjoyment of the lands.

7. In the meanwhile, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act 30 of 2013') came into force with effect from 01.01.2014. As per Section 24(1)(a) of Act 30 of 2013, if the land acquisition Proceedings were initiated under the Act, but no award was passed under Section 11 of the Act, all the provisions of the new Act relating to the determination of compensation shall apply. In other words, the matters must be passed the stages of Section 5A enquiry, Section 6 declaration, Sections 7 and 8 and only the things remaining to be done for being determining the compensation payable for the lands proposed to be acquired. In the case on hand, on account of the fact that there was no Section 5A enquiry and Section 6 declaration, the land acquisition proceedings cannot be proceeded further.

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 proceedings 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. In view of the facts and circumstances of the case coupled with the legal position, the impugned notice is liable to be set aside.

9. In the result, the writ petition is allowed setting aside the impugned land acquisition proceedings dated 18.04.2007 issued under Section 4(1) of the Land Acquisition Act, 1984 as published in Andhra Jyothi on 26.04.2007. No costs. Miscellaneous Petitions, if any, pending in this writ Petition shall stand closed.

M. GANGA RAO, J

Dt.31.01.2018

Mj/ *



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WRIT PETITION No. 10101 of 2007



Dated: 31.01.2018

MjI/ *