

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.7950 OF 2007

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus declaring the action of the respondents in proposing to disburse the compensation amounts to the borrowers of the 5th respondent-Society without obtaining “No Objection Certificates” from the petitioner’s bank in pursuance of the notification issued under Section 4 (1) of the Land Acquisition Act, 1894 for the lands pertaining to Pydipaka Village, West Godavari District, as arbitrary, illegal and contrary to the provisions of the A.P. Co-operative Societies Act, 1964 and consequently to direct the respondents not to disburse the compensation amount payable to the borrowers without producing ‘No Objection Certificates’.

Heard Smt Bobba Vijayalakshmi, learned counsel appearing for the petitioner and learned Government Pleader for Co-operation.

It is the case of the petitioner that the 5th respondent-society has obtained loan from the petitioner-bank by mortgaging the lands of its members and those lands are sought to be acquired by respondents 1 to 4 for construction of

Indra Sagar Project. It is the further case of the petitioner that if the compensation amount is paid directly to the members of the 5th respondent-society, it would cause financial loss and damage to the petitioner-bank as the petitioner-bank has got first charge over the said properties as the lands are mortgaged in its favour.

Learned counsel appearing for the petitioner contends that when the lands of the members of the 5th respondent-society are mortgaged in favour of the petitioner-bank and charge is created in favour of it and without there being any notice to the petitioner-bank, respondents 1 to 4 cannot disburse the compensation to the members of the 5th respondent-society.

In similar circumstances, while disposing of W.P.No.4944 of 2007 on 1.6.2010, this Court observed as under:

“Therefore, the writ petition is disposed of directing that the Land Acquisition Officer shall insist on production of No Objection Certificate from the petitioners in respect of the lands that are mortgaged in their favour. It is also directed that the petitioners shall furnish a list of the mortgaged lands, that are proposed to be acquired, enclosing copies of mortgage deeds.”

Following the same, this Writ Petition is also disposed of directing the Land Acquisition Officer to insist on production of No Objection Certificate from the petitioner-

bank in respect of the lands that are mortgaged in its favour and on production of such No Objection Certificates only, the Land Acquisition Officer or any competent authority, shall disburse the compensation in favour of the members of the 5th respondent-society. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

13th April, 2018
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