

THE HON' BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.12435 of 2007

ORDER:-

This Writ Petition is filed assailing the draft notification issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') bearing No.73/07 dated 18.04.2007 issued by respondent No.1 proposing for acquisition of the petitioner's land admeasuring Ac.1.00 cents in Survey No.82/3(p) situated at Gaddamanugu Village, G.Konduru Mandal, Krishna District.

2. The case of the petitioner is that her husband was the native of Gaddamanugu Village, as such they got lands in the said village and also in the nearby villages. After the death of her husband there was a family settlement and in that settlement the land in Survey No.82/3(p) situated at Gaddamanugu Village fell to the share of her sons and they are in peaceful possession and enjoyment of the same. While so, the Government proposed to acquire the said land for providing house sites to the weaker sections. The District Collector issued a notification under Section 4(1) of the Act bearing No.73/07 dated 18.04.2007 and the same was published in the District Gazette on 18.04.2007 and also a paper publication was issued on 26.04.2007. A notice under Section 5A of the Act in Form 3 was issued on 27.04.2007 and

served on the petitioner. The petitioner attended the enquiry on 14.05.2007 before the Land Acquisition Officer. The petitioner filed the objections before the Land Acquisition Officer on 17.05.2007. The Enquiry Officer enquired into the objections, submitted by the petitioner, and after conducting the Section 5A enquiry he submitted a report to the District Collector on 23.06.2007. After perusing the report submitted by the then Revenue Divisional Officer, Vijayawada, the District Collector has issued an endorsement on 28.06.2007 rejecting the objections of petitioner. At that stage, before issuing the draft declaration under Section 6 of the Act, the petitioner approached this Court by filing the present Writ Petition.

3. On 18.06.2007, this Court granted the interim order in W.P.M.P.No.15502 of 2007 staying of all further proceedings of Section 4(1) notification bearing No.73/07 dated 18.04.2007 issued by respondent No.1 for acquisition of the land in Survey No.82/3(p) situated at Gaddamanugu Village, G.Kondur Mandal, Krishna District including 5A enquiry being conducted by respondent No.2. The Office of respondent No.2 has received the said order on 01.07.2007. In view of the said interim order, the respondents could not proceed further.

4. Heard the learned counsel for petitioner and the learned Government Pleader for Land Acquisition (A.P.).

5. The learned Assistant Government Pleader on the instructions received vide letter in Rc.B2/791/2007 dated 19.12.2007 of respondent No.2 submits that the draft declaration under Section 6 of the Act was not published and the land acquisition proceedings could not be completed in view of the interim order passed by this Court.

6. In the meanwhile, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act 30 of 2013') came into force with effect from 01.01.2014. As per Section 24(1)(a) of the Act 30 of 2013, if the land acquisition proceedings were initiated under the Act and no award under Section 11 of the Act has been made, all the provisions of the new Act relating to the determination of compensation shall apply.

7. 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 the Act 30 of 2013. Accordingly, the land acquisition proceedings are set aside.

In the circumstances, this Writ Petition is allowed. It is needless to observe that allowing of the Writ Petition will not preclude the Government from acquiring the aforementioned land of the petitioner in future either for the original purpose or for any other purpose. No costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

29.01.2018
MVA

M. GANGA RAO, J

