

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.3987 OF 2007

ORDER:

This Writ Petition is filed seeking to declare the proceedings No.G4/5342/2006 issued under Section 4 (1) of the Land Acquisition Act for acquiring the lands of the petitioners admeasuring Acs.2.06 cents in survey Nos.78/5 and 80/1 situated at Bandarugudem Village, Bapulapadu Mandal of Krishna District belonging to the 1st petitioner and admeasuring Ac.1-23 cents in survey No.80/2 situated at Bandarugudem Village, Bapulapadu Mandal of Krishna District (for short 'subject lands'), as illegal and arbitrary.

2. Brief facts of the case are that the petitioners claim to be the owners and possessors of the subject lands, which are wet agricultural lands, having purchased the same through registered sale deeds dated 03.12.2005 and 19.11.1995 respectively for a valuable consideration from the erstwhile owners. While so, notification under Section 4 (1) of the Land Acquisition Act in RC No.G4/5342/2006 dated 15.11.2006 was issued intending to acquire the subject lands belonging to the petitioners along with other lands for the purpose of providing house sites to weaker sections. Petitioners further state that a notice dated 20.11.2006 under Section 5-A of the Land Acquisition Act was issued calling for objections on or before 08.12.2006. However, without considering the objections submitted by the petitioners in proper perspective and without conducting appropriate enquiry, the first respondent issued Section 6 declaration of the Act. Petitioners further state that in view of Section 3 of the Andhra Pradesh

Agricultural Land (Conversion for Non-Agricultural Purpose) Act 2006, no agricultural land shall be put to non-agricultural purpose without prior permission of the competent authority. Petitioners also state that abundant government land is available in the village and the same can be utilised for providing plots to weaker sections. Hence, questioning the 4 (1) notification, the present writ petition is filed.

3. This Court on 01.03.2007 while admitting the writ petition, granted interim stay of all further proceedings.

4. In spite of granting several adjournments, no counter is filed by the respondents.

5. Heard the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition.

6. Learned counsel for the petitioners state that in view of the stay granted by this Court, no award was passed and the acquisition proceedings could not be concluded.

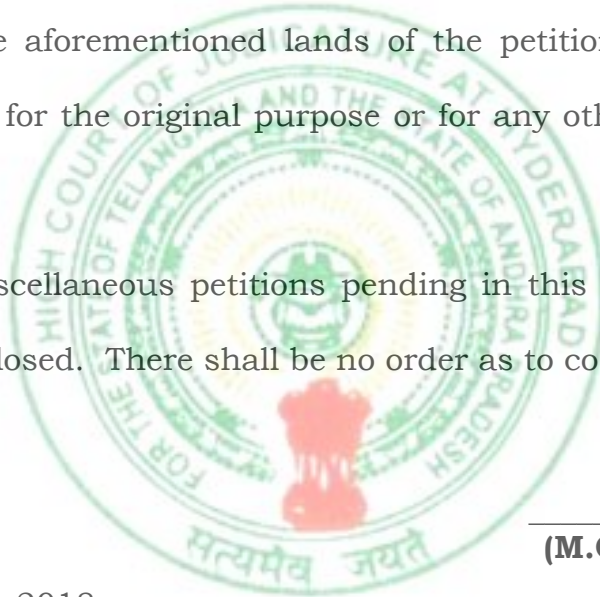
7. During pendency of the writ petition, the new Act i.e. The Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act 30 of 2013') came into force w.e.f.01.01.2014. As per Section 24(1)(a) of Act 30 of 2013, if the land acquisition proceedings were initiated under the Land Acquisition Act, 1894, and no award under Section 11 of the said Act has been made, all the provisions of the new Act relating to the determination of compensation shall apply.

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 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 Act 30 of 2013.

9. In the facts and circumstances of the case, the writ petition is allowed by setting aside the land acquisition proceedings impugned in this writ petition. It is needless to observe that allowing of the Writ Petition will not preclude the Government from acquiring the aforementioned lands of the petitioners, afresh, in future either for the original purpose or for any other purpose. No costs.

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



(M.GANGA RAO, J)

29th January, 2018
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