

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 8291 of 2008

ORDER:

In this Writ Petition, petitioner challenges the proceedings, dated 19.02.2008 issued by the second respondent - District Collector, East Godavari at Kakinada, rejecting the objections filed by him pursuant to the enquiry initiated under Section 5-A of the Land Acquisition Act, 1894 (for short 'the Act'), with respect to the acquisition of his land admeasuring Acs.3.82 cents in Survey No.228/3 of G. Donthamuru Village, Rangampeta Mandal, East Godavari District, through notification issued under Section 4(1) of the Act.

It is the case of the petitioner that he is a retired teacher; he is eking out livelihood by undertaking cultivation in the subject land; that there are nearly 30 to 40 coconut trees in the subject land; that he is cultivating sugarcane and he planted palm oil trees also; that the subject land is a low-lying area and not suitable for house-sites; that there is Government land to an extent of Acs.3.15 cents in R.S.No.151/1 and Acs.5.70 cents and Acs.5.00 cents in R.S.Nos.132 and 135/5 respectively, situated near to G. Donthamuru Village and more suitable for house-sites.

A counter-affidavit is filed by the respondents asserting that various allegations of the petitioner setting out in detail how he is entitled for the benefits of small farmer are not correct; that the petitioner is a landlord and he has other lands in addition to the subject land; that the objections raised by the petitioner were considered and draft declaration under Section 6 of the Act was published; that the specific allegation of the petitioner that there are other lands available in the Village and are suitable for house-sites is incorrect and that the Award has not been made only on account of the interim orders passed by this Court.

Heard learned counsel for the petitioner and learned Government Pleader for Land Acquisition.

At the outset, it is to be noted that having regard to the repealing of the Land Acquisition Act, 1894, and enacting the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, there is no requirement for this Court to advert to various factual averments mentioned in the writ affidavit as well as the counter-affidavit. It is also to be noted that in terms of Section 24 of the 2013 Act, if the land acquisition proceedings were initiated under

the old Act, where no Award is passed/possession was not taken/compensation was not paid, such proceedings would lapse.

In the case on hand, it is an admitted fact that no Award was passed, possession of the subject land was not taken and no compensation was paid.

Today, learned Government Pleader for Land Acquisition produced before this Court a copy of the written instructions, dated 01.09.2017 received from the third respondent – Land Acquisition Officer-cum-Revenue Divisional Officer, Peddapuram, East Godavari District, and submits that the petitioner is in possession of the subject land and no compensation was paid and that if the subject land is still required to provide house sites to poor families, as and when instructions are received from the Government, fresh land acquisition proceedings would be initiated under the provisions of the new Act.

In those circumstances, it is not necessary for this Court to adjudicate upon the subject matter.

Accordingly, this Writ Petition is closed.

Miscellaneous Petitions, if any pending shall stand closed.

There shall be no order as to costs.

CHALLA KODANDA RAM, J

1st NOVEMBER, 2018.

kvni

