

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 16490 OF 2008

ORDER:

Challenging the Notification, dated 26.05.2008, under Section 4(1) of the Land Acquisition Act, 1894, issued by the 1st respondent, the present Writ Petition is filed.

The petitioner claims that the Notification, issued under Section 4(1) of the Act, involves the land in Sy.No.400/2 belongs to Dhanakonda Gangamma temple, whereas under the Land Acquisition proceedings the same is shown as belonging to Dandumariayamma temple. It is the case of the petitioner that on earlier occasion, the land in Sy.No.399 of Baitapalle village was sought to be encroached by certain other private parties and the petitioner, being a devotee of the temple, had filed O.S.No.669 of 2007 on the file of Additional Junior Civil Judge, Chittoor and obtained interim injunction. But, however, the political rivals influenced the authorities to issue the impugned Notification.

When the matter is taken up for hearing, though no counter affidavit is filed, learned Government Pleader for Land Acquisition placed on record the instructions received from the Tahsildar, Puthalapattu. The assertion of the respondents is that Dhanakonda Gangamma temple is situated in Sy.No.398 but not in Sy.No.399. It is further asserted that enquiry under Section 5-A of the Act was conducted by issuing notice to the persons concerned. However, on account of the stay granted by this Court, further proceedings could not be taken up. It is further asserted that the petitioner's intention is only to harass the poor Dhaliths, not to have access to go Dhanakonda Gangamma temple and

Dandu Mariamma temple via Oddepalle to go to Thalapulapalle, for their day to day necessities like Veterinary hospital, schools, agricultural works and to primary health centre etc. Hence, they prayed for dismissal of the writ petition.

Having considered the rival submissions, at the outset, it may be noted that the Land Acquisition Act, 1894 has been repealed by Act 30 of 2013. Notification under Section 4(1) of the Act has been stayed by this Court and even as per the written instructions submitted, though there is stay with respect to further proceedings, enquiry under Section 5-A of the Act was conducted, however, no declaration under Section 6 of the Act has been made. Steps that are required to be taken before passing an Award are that, after conducting enquiry under Section 5-A, Declaration under Section 6 of the Act has to be made confirming that the land, which is notified under Section 4 (1) of the Act, is suitable for the purpose of acquisition. Thereafter, the proceedings under Sections 7 and 9 of the Act, identifying and measuring the property by giving notice to the persons interested is required to be carried out. Thereafter, the Award under Section 11 of the Act is required to be made within two years from the date of Declaration under Section 6 of the Act.

In the case on hand, as on date, no Declaration under Section 6 of the Act has been made. In other words, stage for passing Award has not reached. In terms of Section 24 of Act 30 of 2013, where the land acquisition proceedings are initiated under the 1894 Act, but no Award was passed under Section 11, then provisions of 2013 Act shall apply relating to determination of compensation. Hence, there is no dispute that the stage for

passing an Award has not reached, hence, there is no possibility of continuing the land acquisition proceedings, dated 26.05.2008, any further.

In those circumstances, the Writ Petition is allowed, leaving it open to the respondent authorities to initiate the proceedings, in the event the subject land is required for public purpose, under the provisions of Act 30 of 2013. No costs.

Consequently, the Miscellaneous Applications pending, if any, shall stand closed.

Date: 15.11.2018

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CHALLA KODANDA RAM, J

