

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.7847 of 2007

ORDER:

This writ petition is filed seeking a writ of mandamus, declaring the action of the respondents in issuing notification under Section 4(1) of the Land Acquisition Act, published in A.P.Extraordinary Gazette, dated 05.04.1994 in G.O.Rt.No.508, Education Department, dated 23.03.1994, issued by the 1st respondent, not conducting Section 5A enquiry and proceeding with the acquisition proceedings against the petitioners' land in Sy.No.12 of B-Thandrapadu village, Kurnool District, to an extent of Ac.3.26 cents, as illegal and arbitrary and also seeking a consequential direction directing the respondents not to proceed with the acquisition proceedings.

2. Heard Sri C.B.Ram Mohan Reddy, learned counsel for the petitioners, learned Government Pleader for Land Acquisition, appearing for respondents Nos.1 to 3 and Sri P.Ganga Rami Reddy, learned counsel for respondents Nos.4 to 6.

3. It has been contended by the petitioners that they are the owners of the land to an extent of Ac.3.26 cents, situated in Sy.No.12 of B-Thandrapadu village, Kurnool Mandal and District. Originally, the land belonged to one Pinjari Khasim Saheb. After his demise, the said land was sold by his wife Nevamma and his son Saleh Saheb by way of registered sale deed, dated 06.02.1964 in favour of one P.Anantaram Singh. The said Anantahram Singh took possession of the property and was in possession and enjoyment of the same. The petitioners herein have purchased the said land from P.Anantaram Singh by way of

registered sale deed, dated 07.04.1993, and since then they are in peaceful possession and enjoyment of the said land.

4. It has been further contended by the petitioners that while they were in peaceful possession and enjoyment of the land in question, respondents Nos.1 to 3 had issued notification under Section 4(1) of the Land Acquisition Act (for short "the Act") with an intention to acquire Ac.160.00 in Pasupula village and B-Thandrapadu village of Kurnool District for the purpose of development of Post-Graduate centre at Kurnool town. The said notification was issued invoking urgency clause and Section 5-A enquiry was dispensed with. The land was acquired on 05.04.1994, Section 6 declaration was published on 13.06.1994 and the possession was taken on 21.09.1994.

5. It has been further contended by the petitioners that as compensation was not paid for the acquired land, they have filed W.P.No.24610/1995 and this Court, vide orders dated 29.08.2006, disposed of the said writ petition with the following observations:

"Having regard to the above said facts and also on the ground that this court has granted interim orders on 02.11.1995 and the said orders continued all along, I set aside the declaration dated 13.6.1994 and dispose of the writ petition directing the respondents to conduct enquiry under Section 5-A of the Act and take further steps accordingly. It is open for the petitioners to raise all such objections available in law in the enquiry to be conducted."

6. It has been further contended by the petitioners that pursuant to the orders of this court, dated 29.08.2006, in W.P.No.24610/1995, the official respondents had conducted Sec.5-A enquiry, but, however, no compensation was paid to the petitioners. In those set of circumstances, the petitioners filed the present writ petition.

7. Respondents Nos.1 to 3 filed counter affidavit, contending that the land in question was originally an assigned land and it was assigned to one Anantharam Singh and since the land in question is assigned land, the question of payment of compensation would not arise.

8. The learned Government Pleader for Land Acquisition has contended that originally the land is an assigned land and it was assigned in favour of one P.Anantharam Singh, and since he has sold the same in favour of the petitioners herein contrary to the provisions of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977, the petitioners are not entitled for any compensation.

9. This court considered the rival submissions made by both the parties.

10. As per the contention of the petitioners, the land in question was originally belonged to one Pinjarai Khasim Saheb, that after his demise, his legal heirs had sold the said land in favour of P.Anantharam Singh under registered sale deed, dated 06.02.1964. When such is the contention of the petitioners that P.Anantharam Singh is the purchaser of the land in question, the respondents cannot contend that the land in question was assigned originally in favour of P.Anantharam Singh.

11. This court had given several opportunities to respondents Nos.1 to 3 to ascertain whether the land in question is assigned land and if that be so, in whose favour it was assigned and who has violated the terms of the assignment. In spite of giving number of opportunities, respondents Nos.1 to 3 could not produce any record to establish that the land in question is an assigned land.

12. Admittedly, when the land was acquired by invoking Land Acquisition proceedings, since the petitioners were in possession of the said land, they are entitled for compensation. The petitioners are rightful owners of the land in question, having purchased the same under registered sale deed, dated 07.04.1993 from their vendor Anantharam Singh, who had purchased the said land by way of registered sale deed dated 06.02.1964. Therefore, the petitioners are entitled for payment of compensation for the reason that the respondents have acquired their land. Even otherwise, if the respondents come to a conclusion, based upon any material on record, to demonstrate that the petitioners' predecessors were enjoying the said land as assignees, even then, the petitioners are entitled for compensation in view of the judgment of the Larger Bench of this Court in *LAO-cum-RDO, Chevella Division, Domalaguda, Hyd. V Mekala Pandu*¹

13. For the foregoing reasons, the writ petition is disposed of, directing the petitioners to make a representation to respondents Nos.1 to 3, pursuant to the observations made in this writ petition, within a period of 2 (two) weeks from the date of receipt of a copy of this order, and on receipt of such representation, respondents Nos.1 to 3 shall dispose of the same and pass appropriate orders thereon, within a period of 8 (eight) weeks thereafter. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

ABHINAND KUMAR SHAVILI, J

Date: 11.04.2018
Dsr

¹ 2004(3) CTC 19 = 2004(2) ALD 451