

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P. No.13806 of 2016

O R D E R:

Heard counsel for petitioner, the Government Pleader for Land Acquisition appearing for respondents 1 to 5, and Sri Virupaksha Dattatreya Gouda, Counsel appearing for 6th respondent.

2. Petitioner is the owner of an extent of Ac.0.09 cents of land in Sy.No.230/B2 and Ac.0.14 cents in Sy.No.231/B2 of Kothapeta Village, Gooty Mandal, Anantapur District.

3. Petitioner's land was notified under Section 11 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act') on 09.09.2015 for the purpose of providing a burial ground to the residents of Kothapeta Village.

4. Petitioner filed objections on 28.10.2015 under Section 15(1) of the Act.

5. Though the said statute requires the objections of the petitioner to be considered by the District Collector(2nd respondent), the 2nd respondent did not independently apply his mind to the objections filed by the petitioner but simply relied on the recommendation made by the Revenue Divisional Officer, Anantapur and overruled the petitioner's objections by the impugned order dt.09.02.2016.

6. Thereafter, Declaration under Section 19 of the Act was issued on 31.03.2016.

7. Petitioner contends that no personal hearing was given to the petitioner by the 2nd respondent as mandated by sub-Section (2) of Section 15 of the Act and the 2nd respondent could not have abdicated his responsibility to the 4th respondent and blindly relied on whatever the 4th respondent told him.

8. On 25.04.2016 while admitting the Writ Petition, in WP.MP.No.17238 of 2016 this Court was *prima facie* of the opinion that there is clear violation of provisions of the Act and granted stay of all further proceedings pursuant to the Declaration made under Section 19 of the Act which was published on 31.03.2016 including eviction of the petitioner from the subject land.

9. WV.MP.No.3956 of 2016 has been filed by the 2nd respondent and WV.MP.No.1929 of 2016 has been filed by the 6th respondent, to vacate the said order.

10. In the vacate stay application filed by the 2nd respondent he did not deny that personal hearing was not given to the petitioner. He stated that he overruled the objections of the petitioner and passed the impugned order, since the petitioner was a big farmer and the subject land was allegedly used earlier for burial purposes by the local people

and emotions and sentiments are tagged with the burial ground which is existing in the said land.

11. Counsel for petitioner however contradicts the same by referring to the proceedings L.Dis.No.B/421/2014 dt.11.08.2014 of the Tahsildar, Gutti stating that the subject land was always patta land of the petitioner and his predecessors, and there is no record available about the usage of the said land for burial ground.

12. Be that as it may, since there is no evidence produced by the respondents to show that any personal hearing was provided to the petitioner, whose land is notified to be acquired, as is mandated by Section 15(2) of the Act, and since the impugned order does not indicate any independent application of mind by the 2nd respondent to the objections of the petitioner, the impugned order cannot be sustained.

13. Therefore, the Writ Petition is allowed; the impugned order issued by the 2nd respondent in proceedings No. G3/3569/2015, dt.09.02.2016 is set aside; consequently the Declaration under Section 19(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 issued on 03.03.2016 is also set aside; 2nd respondent is directed to provide a personal hearing to the petitioner and personally consider the objections raised by the petitioner taking into

account the proceedings L.Dis.No.B/421/2014 dt.11.08.2014 of the 5th respondent referred to above and then take further action in accordance with law. No order as to costs.

14. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

28th August, 2018.

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