

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.15233 OF 2007

ORDER:

This Writ Petition is filed challenging the action of the respondents in issuing section 9 and 10 notices dated 04.07.2007 to participate in award enquiry under Land Acquisition Act, as arbitrary and illegal and without jurisdiction as the same is not preceded by either issuance of Section 4 (1) notification or published in news paper circulated in the locality.

2. Brief facts of the case is that the petitioners' father Rajanna Ramulu, who died in the year 2003, was issued with a notice stating that he was holding an extent of Acs.5-06 cents of land situated in survey No.120/1 at Jangareddigudem. Prior to his death, he executed a will and pursuant thereto the first petitioner bequeathed the said land in her favour. The remaining extent of land i.e. Acs.1-94 cents in R.S.Nos.119/1 to 5 is in the name of the elder sister of the petitioner. Further, the name of the husband of the first petitioner was wrongly mentioned in the impugned notice as Bangaru Satyanarayana instead of Bangaru Suryanarayana. It is further averred that the Land Acquisition Officer-cum-Revenue Divisional Officer, the second respondent, had identified the petitioners' land extent of Acs.12.50 cents covered by RS No.119/1 to 5 and 120/1 of Jangareddigudem (V) & (M) of West Godavari District, for acquisition for providing house sites to the Project Displaced Families of Pydipaka and Ramayyapeta under Polavaram Irrigation Project. The notification under Section 4 (1) of the Land Acquisition Act was issued by invoking urgency clause under Section 17 (4) of the Land

Acquisition Act dispensing with the 5-A enquiry in proceedings in ROC No.2502/06/G3 dated 18.05.2007. Draft declaration under Section 6 of the Land Acquisition Act was also approved by the Collector, West Godavari, in ROC No.2502/06/G3 dated 25.05.2007. Thereafter, notices under Section 9 (1) and 10 of the Land Acquisition Act were issued on 04.07.2007 and the same were served on the petitioners on 14.07.2007 directing them to appear for award enquiry on 17.07.2007. At the request of the petitioners, the matter was adjourned to 24.07.2007. At that juncture, petitioners filed the present writ petition.

3. This Court on 21.08.2007 granted interim stay of all further proceedings pursuant to the impugned notices. It is represented that in view of stay granted in the writ petition, further proceedings under the Land Acquisition Act could not be concluded.

4. Now the learned Assistant Government Pleader, basing on instructions dated 20.01.2018 received from the Revenue Divisional Officer, Jangareddigudem, submits that the Project Displaced families of Pydipaka and Ramayyapeta have identified substitute land of Acs.24.53 cents in R.S.No.475 of Guravaigudem Village, Jangareddigudem Mandal, as the writ petitioners were not willing for the acquisition of the subject lands. In these circumstances, there is no need to acquire the proposed lands of the petitioners and the respondents have taken the decision to withdraw the land acquisition proceedings in respect of the petitioners' lands.

5. 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.

6. 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. The interplay of Section 11-A of the Act and Section 24(1)(a) of Act 30 of 2013 was considered by the Apex Court in ***Laxmi Devi Vs. State of Bihar and Others*⁽¹⁾** and in view of the conflicting situation, it was held that the acquisition proceedings initiated under the Act are liable to be set aside and the respondents-State were given liberty to issue a fresh notification, if they so choose, under Section 24(1)(a) of Act 30 of 2013.

7. Learned counsel for the petitioners would submit that notices under Sections 9 and 10 of the Act were issued without therebeing any prior notification under Section 4 (1) of the Act and

¹ (2015) 10 SCC 241

draft declaration under Section 6 of the Act and the same was not published widely as required under the provisions of the Act.

8. In these circumstances, the writ petition is allowed by setting aside the notices dated 04.07.2007. It is needless to mention that allowing of the writ petition will not preclude the government from acquiring the aforementioned land of the petitioners in future either for original purpose or for any other purpose.

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

30th January, 2018
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(M.GANGA RAO, J)