

THE HON'BLE SRI JUSTICE M.GANGA RAO

W.P. No.6735 of 2007

ORDER:

The 1st respondent issued notification under Section 4(1) of the Land Acquisition Act, 1894 on 30-06-2006 proposing to acquire the lands belong to the petitioners covered by Rs.No.122/2 to an extent of Ac.2.92 cents and Ac.0.54 cents covered by R.S.122/3 of Madduru village of Kovvur Mandal, West Godavari District and Section 5-A enquiry was conducted as per the orders of this Court passed in W.P.No.18878 of 2006, dated 29-09-2006. After considering the objections, by impugned proceedings dated 05-03-2007, the Collector, West Godavari District has rejected the objections and held that the lands are suitable for providing house sites. Challenging the same, this writ petition is filed.

2. The respondents filed counter-affidavit denied the averments made in the writ affidavit.

3. While admitting the writ petition, this Court on 03.04.2007 granted interim stay in W.P.M.P.No.8611 of 2007. Thereafter, in view of the interim directions, the respondents have not proceeded further in concluding land acquisition proceedings. No Award as required under Section 11 of the Act has so far been passed and no possession of the land was taken.

4. It is to be seen that during the 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.

5. 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.

6. In view of the ratio laid down by the Apex Court, the acquisition proceedings initiated in respect of the petitioners' land are set aside. Accordingly, the writ petition is allowed. It is needless to observe that allowing of the Writ Petition will not

¹ (2015) 10 SCC 241

preclude the Government from acquiring the aforementioned lands of the petitioners in future either for the original purpose or for any other purpose. No costs.

7. Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

M.GANGA RAO, J

01.02.2018
TSNR

