

THE HON'BLE SRI JUSTICE M.GANGA RAO

W.P. No.13535 of 2007

ORDER:

This writ petition is filed under Article 226 of the Constitution of India to declare the notification issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') vide proceedings in ROC.No.G2/SW/314/07, dated 23.05.2007, issued by the 2nd respondent and published on 31.05.2007, as illegal and unjust.

2. It appears that a notification under Section 4(1) of the Act dated 23.05.2007 was issued for acquisition of the petitioner's land to an extent of Acs.2.03 cents situated in Sy.No.252/2 of Vedangi, Poduru Mandal, West Godavari District, for the purpose of providing houses to the weaker section people under 'Indiramma Programme'. The lands are double crop wet lands. Further, according to the petitioner, as per Circular Memo No.10054/L.A.1/2005, dated 22.04.2006 issued by the Government of Andhra Pradesh when alternative Government lands are available, the private lands should not be acquired. Further, according to the petitioner, impugned action of acquisition of double crop wet lands for providing house sites to weaker sections i.e., for non-agricultural purpose is also oppose to the very scheme of Section 3 read with Section 9 of Andhra Pradesh Agricultural Land (Conversion For Non-Agricultural Purposes) Act, 2006.

3. This Court on 28.06.2007 while admitting the writ petition granted interim stay of all further proceedings.

4. 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.

4. 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.

¹ (2015) 10 SCC 241

5. In view of the ratio laid down by the Apex Court, the acquisition proceedings initiated in respect of the petitioner's land are set aside. Accordingly, the writ petition is allowed. It is needless to observe that allowing of the Writ Petition will not preclude the Government from acquiring the aforementioned lands of the petitioner in future either for the original purpose or for any other purpose. No costs.

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

31.01.2018
TSNR



M.GANGA RAO, J