

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.19708 OF 2007

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus declaring the action of the respondents in not initiating land acquisition proceedings and not paying compensation for the petitioner's land admeasuring Ac.2.47 cents covered by Sy.No.485, Kolabhimunipadu Village, in spite of the land having been submerged in Veligonda Project, as illegal, arbitrary and violative of the provisions of the Land Acquisition Act, 1894 (for short the 'the Act') and consequently, to direct the respondents to initiate land acquisition proceedings and pay the compensation in accordance with law.

The case of the petitioner is that he is the absolute owner and possessor of the said land. He purchased the said property from his vendor U.Ramaiah under registered sale deed dated 15.4.1986. His vendor purchased the same under registered sale deed dated 6.2.1979 from his vendor S.Subbaiah and another. The said vendor purchased the land from S.Papaiah under registered sale deed dated 14.06.1965. While so, the 1st respondent issued a notice on 25.08.2005 as to why his lands should not be resumed for the purpose of construction of Veligonda Project. Pursuant to the same, the

petitioner submitted his explanation to the 2nd respondent on 29.11.2006. But, so far no orders have been passed thereon. Hence, the present writ petition is filed seeking payment of compensation for his land submerged for the purpose of construction of Veligonda Project.

Counter-affidavit has been filed on behalf of the respondents denying the allegations made by the petitioner, stating that the land in question is a Government land as per the revenue records. The Special Deputy Collector (LA) issued notice for resumption of the land in question on 25.08.2005. The petitioner has produced certain documents stating that he has purchased the land vide sale deed dated 15.4.1986. No person is entitled to claim ownership rights over the Government land and alienation of the Government land is hit by the provisions of Act 9 of 1977. It is further stated that the evidence produced by the petitioner does not prove his title to the land to an extent of Ac.2.47 cents in Sy.No.485. Hence, the request of the petitioner for payment of compensation vide representation dated 29.11.2006 was rejected. It is also stated that the Government paid exgratia to the landless poor who were granted DKT pattas for the Government lands as per the orders of the Government. Since the petitioner is not the assignee, he is not entitled to any

exgratia or compensation. The petitioner has failed to prove his title over the said land even after affording opportunity.

In the facts and circumstances of the case, in considered view of this Court, the land in an extent of Ac.2.47 cents in Sy.No.485 is Government land as per the RSR, as the petitioner failed to prove his title to the land. The Government land could not be acquired under the provisions of Land Acquisition Act. Hence, the petitioner's prayer to direct the respondents to initiate land acquisition proceedings and pay compensation under Article 226 of the Constitution of India, as the power to acquire the land is eminent domain power of the State, could not be granted.

Accordingly, the Writ Petition is dismissed. If the petitioner so advised, he may approach Civil Court payment of compensation, as per law. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.GANGA RAO

14th February, 2018
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