

THE HON'BLE SRI JUSTICE M.GANGA RAO

W.P. No.17339 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 G3/4647/2007, dated 28.07.2007, issued by the 1st respondent for acquiring the petitioners' land to an extent of Acs.16.56 cents situated in survey Nos.29/2, 30/1, 30/2, 30/4B, 30/4C part, 30/4D, 26/1A1, 26/1A3, 26/2, 25/1A, 23/1 and 23/2 at Mutchumilli Village, Ramachandrapuram Mandal, East Godavari District, as illegal and unjust.

2. It appears that a notification dated 28.07.2007 under Section 4(1) of the Act was issued for acquisition of the petitioners' lands for the purpose of providing house sites to the weaker sections people under 'Indiramma Programme Phase-II'. The lands are double crop wet lands.

3. This Court on 14.08.2007 while admitting the writ petition granted interim stay of all further proceedings. Thereafter, no further proceedings were taken up for concluding the land acquisition proceedings.

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.

6. In the facts and circumstances of the case, the acquisition proceedings initiated in respect of the petitioners' lands 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 petitioners, afresh under Act 30 of 2013, 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

05.02.2018
TSNR