

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.16584 OF 2007

ORDER:

This writ petition is filed to declare the draft declaration under Section 6(1) of the Land Acquisition Act, 1894 (for short 'the Act') in proceedings Rc.No.3030/06SWLA, dated nil-11-2006, published on 09.12.2006, in People Vision Telugu Daily newspaper of Srikakulam edition, as illegal and arbitrary.

2. Heard both sides.
3. No counter is filed till date by the contesting respondents.
4. The case of the petitioners, who are 24 in number, is that they are small farmers owning very small extents of dry land and depending on the said lands. The details of the lands owned by them are as follows:

Sl.No.	Name	Dry Land	Survey Nos.
1.	Vempalli Chinni Krishna	Ac.0.35 Ac.0.29	232/3 232/6
2.	Potnuru Narusu Naidu Land shown in the name of Potnuru Suryanarayana	Ac.1.53	232/3
3.	Tankala Kannam Naidu	Ac.0.29	232/5
4.	Vavilapalli Ramu	Ac.0.29	232/6
5.	Bevara Seetharam	Ac.0.30 Ac.0.29	232/7 232/8
6.	Mirthireddy Thavitamma	Ac.0.30	232/9
7.	Vanjarapu Peda Sanyasi Naidu	Ac.0.34	232/10
8.	Tankala Appanna	Ac.0.34	232/11
9.	Tankala Suryanarayanamma	Ac.0.31	232/12
10.	Potnuru Appala Naidu	Ac.0.34	232/15
11.	Mirthireddy Thaviti Naidu	Ac.0.54	232/16
12.	Vanjarapu Appala Naidu	Ac.0.20	232/17
13.	Vanjarapu China Sanyasi Naidu	Ac.0.24	232/19

14.	Vanjarapu Ramu		
15.	Vanjarapu Chinna Appala Naidu	Ac.0.26	232/22
16.	Vaddipalli Thavitamma	Ac.0.52	232/24
17.	Potnuru Sangamma	Ac.0.57	232/25
18.	Vavilapalli Sriramulu	His lands are situated in middle of the Lands under acquisition	
19.	Tompala Parayya purchased from Gorlanki Suranna	Ac.0.23	232/26
20.	Meesala Suryanarayana	His lands are situated in the middle of the lands under acquisition.	
21.	Varada Prabhavathi	Ac.0.89	232/13
22.	Potnuru Annapurnamma W/o.late Satyam Naidu	Ac.0.37	232/14
23.	Adapa Appala Naidu		232/1

They belong to Turpu Kapu community, which is listed as a backward class community. At the instance of the political parties, the respondents have initiated the land acquisition proceedings, proposing to acquire the petitioners' lands. The second respondent had neither issued notification under Section 4(1) of the Act nor published in the two vernacular daily newspapers having wide circulation in the area, as required under the provisions of the Section 4 of the Act. But the second respondent issued draft declaration under Section 6 of the Act, dispensing with Section 5-A enquiry invoking urgency clause under Section 17(1) of the Act. The petitioners stated that invoking Section 17(1) and (2) of the Act and dispensing with Section 5-A enquiry in respect of the lands acquired for providing house sites to the weaker sections, is illegal and acquiring the small extents of lands belong to the petitioners and giving it to the other weaker sections, is also equally bad.

5. The present writ petition is filed before this Court. This Court, on 12.11.2017, admitted the writ petition and passed interim order on 14.09.2007, which reads as under:

“*Status quo* as on today shall be maintained with reference to the land of the petitioners in question.”

6. But, thereafter, the respondents have not taken any further action under the provisions of the Act to conclude the proceedings by passing award under Section 11 as required under the Act and no possession of the land was taken. In the absence of the counter of the respondents, this Court is forced to accept the contentions of the petitioner.

7. In the facts and circumstances of the case and in considered view of this Court, the petitioners' lands were acquired for providing house sites dispensing with Section 5-A enquiry, depriving the petitioners' right to object for acquisition of the lands, is found to be illegal and contrary to the provisions of the Act. Hence, the land acquisition proceedings initiated by the respondents in respect of the petitioners' lands by the draft declaration under Section 6(1) of the Act in proceedings Rc.No.3030/06SWLA dated nil-11-2006, published on 09.12.2006, in People Vision Telugu Daily newspaper of Srikakulam edition, which has no wide circulation in the locality, as held by this Court and the Hon'ble Apex Court, are liable to be set aside.

8. Further, during the pendency of the writ petition, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act 30 of 2013') came into force with effect from 01.01.2014. As per Section 24(1)(a) of the 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.

9. 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 the 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 the Act 30 of 2013. For the reasons stated above, the draft declaration under Section 6(1) of the Act is set aside.

10. Accordingly, the writ petition is allowed with costs of Rs.10,000/- (Rupees Ten thousand only) payable by the second respondent to the petitioners as the small farmers were driven to this Court for redressal of their grievances

arising out of illegal initiation of the land acquisition proceedings under the Act.

11. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE M.GANGA RAO

19th January, 2018
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