

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.29281 OF 2018

Date: 26.10.2018

Between:

Yelugubanti Hari Babu, s/o. late Kondal Rao,
Aged about 54 years, R/o. Vijayawada, Krishna
District and another.

.....Petitioners

and

The State of Andhra Pradesh, rep.by its Principal
Secretary, Revenue (Land Acquisition) Department,
Secretariat Buildings, Velagapudi, Amaravathi,
Guntur district and another.

.....Respondents



The Court made the following:

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ORDER:

Notification of the Social Impact Assessment (Form-II) under Section 4(1) of the Right to Fair Compensation and Resettlement Act, 2013 (Act, 2013) read with Rule 6(2) annexed to G.O.Ms.No.389, Revenue (Land Acquisition) Department, dated 20.11.2014, proposing to acquire the land of petitioners to an extent of Ac.15.53 cents in Sy.No.416/2B in Rajamahendravaram Urban and Mandal is under challenge.

2. Heard learned counsel for petitioners and learned Government Pleader for respondents.

3. According to learned counsel for petitioners, notice is vague and as the intention to acquire the land of petitioners was for future needs of Rajamahendravaram city for providing civic amenities after merging the vicinity panchayats into the limits of Rajamahendravaram Municipal Corporation, on that ground alone, notice is liable to be set aside. Learned counsel referred to the definition of 'public purpose' as incorporated in Section 3 (za) read with Section 2(1) of the Act, 2013 to contend that 'public purpose' has to be specific and within the parameters mentioned in Section 2 (1) of the Act, 2013 to initiate steps under the Act, 2013, whereas what is mentioned in the notification being very vague, the same is not sustainable in law. In support of his contention that whenever a private land is sought for acquisition for public purpose, the notification has to be specific and the public purpose has to be mentioned and cannot be vague as held by this Court in **Gajjela Narasimha Reddy and others v. Collector, Ranga Reddy**

district and another¹. He also placed reliance on the decision of this Court in **C.Padmavathi v. District Collector, Chittoor district, Chittoor and others**² to the same effect. On the same terms, he also placed reliance on the decision of Supreme Court in **Munshi Singh and others v. Union of India**³, where under Supreme Court held that public purpose has to be specific particularly to enable affected person to represent.

4. Section 4 of the Act requires preparation of social impact assessment study. Opening part of sub-section (1) of Section 4 reads that “whenever the appropriate Government intends to acquire land for a public purpose”. Thus, this Act requires mentioning of public purpose even at the stage of 4(1) notification. The three decisions relied by the learned counsel for petitioners are under the Repealed Act. However, the principle laid down therein is also applicable to the acquisition proceedings under the present Act. When acquisition is for the ‘public purpose’, as held in the decisions relied by learned counsel, the purpose must be very specific and clear, and it cannot be vague. Reading of notification impugned would show that the acquisition is “for the future needs of the Rajamahendravaram city for providing civic amenities after merging the vicinity panchayaths into the limits of Rajamahendravaram Municipal Corporation”. It is vague and depends on happening of future event. Thus, when acquisition is not clear about the purpose of acquisition, it is not possible for petitioners herein to respond to the notification issued under Section 4(1) of the Act, 2013 and raise objections.

¹ 2008 (5) ALD 302

² 2011 (6) ALD 24

³ (1973) 2 SCC 337

5. Though the notification is silent, to test the stand of respondents, even counter-affidavit do not state in clear terms intendment of respondents to acquire the land belonging to petitioners. Learned Government Pleader sought to justify the decision to issue notification by referring to the orders of the Government in G.O.Rt.No.645 Municipal Administration & Urban Development (J2) Department dated 13.09.2017. On reading of Government order also, it is clear that the purpose of acquisition of the land is not mentioned.

6. Unless the purpose of acquisition is clear and specific and such purpose is for public purpose, no private land can be put in question for compulsory acquisition under the Act, 2013. Thus, the impugned notification is liable to be set aside on this ground alone. Writ Petition is allowed accordingly. Pending miscellaneous petitions shall stand closed.

Date: 26.10.2018
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