

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

WRIT APPEAL No.1361 of 2016

JUDGMENT: (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

Two Writ Petitions, namely W.P.No.8330 of 2007 and W.P.No.13401 of 2008, were pending before the learned single Judge. W.P.No.13401 of 2008 was instituted by Sri Korupolu Appala Naidu, who is not a party to W.P.No.8330 of 2007 instituted by Kakumanu Satish Kumar and others.

2. W.P.No.8330 of 2007 happened to be decided on 27.04.2007. The State Government filed a review petition seeking review of that order on the premise that enquiry under Section 5-A of the Land Acquisition Act, 1894 (hereinafter referred to as, the Act), was actually held. Learned single Judge called for the files and held that the earlier order passed could not stand in view of the fact that the enquiry under Section 5-A of the Act was actually held and that the parties thereto had also participated. However, in one go, the effect of that order was carried over to W.P.No.13401 of 2008 in which the challenge levied was that the draft declaration was not issued within two years from the date of draft notification, dated 27.05.2006. Learned single Judge held that such challenge do not continue to hold good in view of the review and consequential order on the review petition arising from W.P.No.8330 of 2007.

3. The aforesaid factors would show that W.P.No.13401 of 2008 was pending for final disposal. The issue raised therein was not the same as was in W.P.No.8330 of 2007. The scope of the limits of jurisdiction of review would not extend to deciding finally any issue

which was raised in another Writ Petition relating to the same acquisition, even if the order on the review application may have a bearing on W.P.No.13401 of 2008. The situation in hand, in our view, results in injustice to the petitioner in W.P.No.13401 of 2008, who had the eligibility to have the said Writ Petition decided independently even if the decision in W.P.No.8330 of 2007 and the review petition arising therefrom had any impact on W.P.No.13401 of 2008 or otherwise.

4. For the aforesaid reasons, this Writ Appeal succeeds and the impugned order insofar as it relates to W.P.No.13401 of 2008 as reflected in paragraph No.8 of the impugned order as well as the consequential dismissal of W.P.No.13401 of 2008 are vacated.

The Writ Appeal is ordered accordingly directing that W.P.No.13401 of 2008 be listed for consideration as per roster.

The miscellaneous petitions pending in this Writ Appeal, if any, shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

V.RAMASUBRAMANIAN, J

06.08.2018

vs