

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.14649 of 2019

Triveni Bhavan Trust

...Petitioner

Vs.

State of Telangana,
Rep. by its Principal Secretary,
Revenue Department,
Secretariat,
Hyderabad, and others

... Respondents

DATE OF JUDGMENT PRONOUNCED: 28.10.2019

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment
may be marked to Law Reporters/Journals? Yes/No
3. Whether Their Ladyship/Lordship wishes to
see the fair copy of the Judgment? Yes/No

CHALLA KODANDA RAM, J

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.... Respondents

!Counsel for the Petitioner : Sri Vedula Srinivas

Counsel for the Respondents : GP for Land Acquisition
Sri P. Radhieve Reddy

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> Head Note:

? Cases referred:

(2013) 16 Supreme Court Cases 660
1978(1) SCC 405

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**WRIT PETITION No. 14649 of 2019****ORDER:**

In this Writ Petition, petitioner challenges the proceedings dated 26.06.2019 issued by the second respondent – District Collector, Hyderabad, under Section 15(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act'), without considering its objections.

The facts of the case are that the petitioner's property was notified under Section 11 of the Act for acquisition relating to pedestrian safety works at Nampally Metro Station in the stretch from Ravindra Bharathi Junction to M.J. Market Junction. In the process, a notice also came to be issued to the petitioner in 2015 under Section 15(1) of the Act calling for objections in relation to the proposed acquisition of lands. The petitioner submitted detailed objections to the Land Acquisition Officer as well as the third respondent – Hyderabad Metro Rail Limited, Begumpet, Hyderabad, rep. by its Managing Director. In terms of Section 15(2) of the Act, the designated authority is required to consider the objections and submit a report to the appropriate Government

by offering his remarks with regard to the issues mentioned therein under Section 15(1) of the Act.

Learned counsel for the petitioner relied on a decision of the Supreme Court in **GOJER BROTHERS PRIVATE LIMITED AND ANOTHER v. STATE OF WEST BENGAL AND OTHERS¹**.

From a perusal of the **impugned** proceedings, it is evident that the second respondent extracted the objections of the respective parties in the tabular form, but, did not state anything except that the objections filed by the petitioner during enquiry under Section 15 of the Act have been overruled.

The judicial precedents relating to consideration of objections in respect of acquisition of lands mandate consideration of such objections in an objective manner. Relevant paragraphs of the afore-cited judgment read as under:

“If the report prepared by the Land Acquisition Collector is scrutinized in the light of the principles laid down in the aforementioned judgments, we do not find any difficulty in holding that the learned Single Judge and the division Bench of the High Court committed serious error by approving the acquisition proceedings ignoring that the report was prepared in clear violation of mandate of Section 5-A and the State Government mechanically accepted the report leading to the issue of declaration

¹ (2013) 16 Supreme Court Cases 660

issued under Section 6(1). In the original and supplementary objections filed by it, the appellant had claimed that the entire exercise of acquisition was vitiated due to mala fides and colourable exercise of power. The history of litigation between the parties was also cited by the appellant to substantiate its plea that the acquisition proceedings were initiated only after the management of the School lost legal battle up to this Court. It was also pleaded that the acquisition was meant to bypass the direction given by this Court to the management of the School to hand over the possession of the School. Unfortunately, the Land Acquisition Collector did not deal with any of the objections and summarily rejected the same as if compliance with Section 5-A(2) was an empty formality. The State Government also did not apply mind and mechanically approved the one-line recommendation made by the Land Acquisition Collector.

In our view, non-consideration of the objections filed under Section 5-A(1) has resulted in denial of effective opportunity of hearing to the appellant. The manner in which the Joint Secretary to the Government approved the recommendation made by the Land Acquisition Collector favouring acquisition of the property is reflective of total non-application of mind by the competent authority to the recommendation made by the Land Acquisition Collector and the report prepared by him.”

The matters that are required to be considered in terms of Section 15(1) of the Act are limited to the following three aspects:

- 1) the area and suitability of the land proposed to be required;
- 2) the decision offered for public purpose;
- 3) the findings of sufficient impact of assessment report.

In the present case, in the impugned proceedings, there is no opinion expressed by the second respondent with respect to the aforesaid three aspects.

Though a counter-affidavit is filed by the respondent authorities justifying their action, the impugned proceedings does not by itself indicate consideration of the petitioner's objections.

In the light of the judgment of the Apex Court in **Mahender Singh Gill v. Chief Election Commissioner**², when an order is impugned, no amount of affidavit for assigning reasons therefor is permissible, and the reasons are required to be contained in the impugned proceedings itself.

In the counter-affidavit, it is stated that objections would be considered only after issuing notification under Section 19 of the Act. However, this statement does not detain this Court from issuing directions to the authorities concerned, as, on the basis of the impugned proceedings, the appropriate Government is required to take a decision for issuance of notification under Section 19 of the Act. The Collector is mandated to consider the objections and is required to make recommendation thereon together with record of the proceedings held by him along with a separate report giving therein the approximate cost of land

² 1978(1) SCC 405

acquisition and number of affected families likely to be resettled. There is no such recommendation in the impugned proceedings by the second respondent except extracting the objections of the respective parties and overruling such objections with a single sentence.

In those circumstances, the impugned proceedings are set aside remitting the matter to the second respondent to consider and make a report expeditiously.

Before parting with the case, it is unfortunate to state that earlier, when objections raised by the petitioner were not considered with respect to its property, which was sought to be acquired under Section 4(1) of the Land Acquisition Act, 1894 (repealed), it filed Writ Petition, being W.P.No.36603 of 2013, challenging such rejection order and this Court vide order dated 13.12.2013 disposed of the same by setting aside the rejection order. In spite of the same, once again, the respondents have not taken due care to observe the requirements of the provisions of the Act resulting in delaying of the acquisition process apart from burdening the State with escalated costs.

Subject to the above, this Writ Petition is allowed.

The observations made by this Court in the order dated 13.12.2013 in W.P.No.36603 of 2013 would equally apply to the case on hand. It is needless to mention that the petitioner is required to be given by the respondent authorities concerned an opportunity of personal hearing while considering its case, as, Section 15(2) of the Act mandates.

Miscellaneous Petitions, if any pending, shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

28th OCTOBER, 2019.

Note: L.R. Copy be marked.

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