
(2012) 07 AP CK 0052
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 489 Of 2012

Konduru Padmavathi

APPELLANT

Vs

District Collector, Nellore District and Others

RESPONDENT

Date of Decision : 17-07-2012

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1), 5A, 6(1), 6(3)

Citation : (2012) 5 ALT 606

Hon'ble Judges : Vilas V. Afzulpurkar, J; Pinaki Chandra Ghose, J

Bench : Division Bench

Advocate : A. Anasuya, for the Appellant; P. Roy Reddy, for the Respondent

Final Decision : Dismissed

Judgement

Honourable The Acting Chief Justice Sri Pinaki Chandra Ghose

1. This Writ Appeal by the petitioner is filed against the Order dated 29.12.2012 passed by the Hon"ble Single Judge in W.P. No. 17621 of 2011. The facts of the case briefly stated are as follows:

The appellant-writ petitioner is the owner of Ac.20.30 cents of land comprised in various survey numbers of Menakur Village, Naidupet Mandal, Nellore District. The State authority issued notice u/s 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as "the LA Act") on 12.1.2007 and proposed to acquire the said land under the impugned notification for the purpose of establishment of an industrial park. The appellant challenged the said notification on the ground that the Respondent No. 3 being a company, the procedure envisaged in Part VII of the LA Act has not been followed, therefore, the whole land acquisition proceedings have been vitiated. It is further submitted before the Hon"ble single Judge that no opportunity was given to the appellant to place the objections. It is further contended that the "industrial purpose" as mentioned in the acquisition proceedings is not really for "industrial purpose" and as such the acquisition by the State authority under the impugned notification is illegal, arbitrary and

unreasonable.

2. The Writ Petition was contested by the respondent-authorities by filing a counter-affidavit. It has been stated in the counter that the authorities have duly followed the provisions and issued notifications u/s 4(1) and Section 5-A of the LA Act and publication u/s 6(1) and thereafter passed award in the matter on 31.5.2007. It is pointed out that the infrastructure development project undertaken by the State and executed under the auspices of Respondent No. 3 falls within the meaning of "public purpose" and in support of the said contention reliance was placed on the decision of the Supreme Court in Sooraram Pratap Reddy and Others Vs. District Collector, Ranga Reddy Distt. and Others, and submitted that in the said decision Supreme Court held that the infrastructure development project undertaken by the State Government and executed under the auspices of Respondent No. 3 falls within the expression of "public purpose".

3. The Hon'ble single Judge after hearing the parties came to the conclusion that the appellant has failed to prove that the acquisition proceedings are illegal and arbitrary and were issued in colourable exercise of power. Learned single Judge held that since no allegation has been made in the writ petition alleging any procedural irregularity or illegality in the publication of notification, declaration and holding of enquiries and passing of award, writ petition cannot be entertained and accordingly dismissed the writ petition.

4. Being aggrieved and dissatisfied with the order of the learned single Judge, this appeal has been filed before us.

5. Learned counsel appearing for the appellant contended that the learned single Judge ought to have held that the entire process of land acquisition proceedings adopted by the State is a colourable exercise of power depriving the appellant and others of their land who are agriculturists. It is further urged that the petitioner is an agriculturist and the land which is sought to be acquired by the state authorities is the only source of livelihood of the family of the appellant. The further point which was stated before us is that the respondent authorities proposed to acquire about 6,000 acres of land and already acquired 4,000 acres of land out of which nearly 800 acres of land was either sold or allotted to different companies and recently the 3rd respondent - Andhra Pradesh Industrial Infrastructure Corporation (APIIC) advertised for sale of land in newspapers which clearly shows that the entire exercise of acquisition of land is fraudulent and in support of the said contention placed reliance on the decision of the Supreme Court in Royal Orchid Hotels Limited and Another Vs. G. Jayarama Reddy and Others,

6. It appears to us that the concept of "public purpose" connotes public welfare. With onward march of the concept of socio economic welfare of the people, notions as to the scope of general interest of the community are fast changing and expanding. The emphasis is unmistakably shifted from the individual to the community. Therefore, we find that the concept of "public interest" and "public

purpose" is not static and varies with time and needs of the society. "Public purpose" does not always mean for benefit of the public at large. If public derives an advantage out of it, it would be treated as for public utility. The development of housing, establishment of industrial estates comes within the purview of "public purpose". Whether a public purpose existed or not was a justiciable matter. Prima facie, it is true that the Government is the best judge as to whether public purpose is served by requisitioning the land in question. But, at the same time, Courts have expressed that Government is not the sole judge and Courts have jurisdiction and authority to determine the matter whenever a question is raised whether a requisition order is for a "public purpose" or not. The Courts, however, adopted a very liberal attitude on the question of public purpose and was rare indeed for a Court to hold that an acquisition of land was not for a public purpose. Section 6(3) of the LA Act provides that the declaration by the State Government on the existence of "public purpose" for land acquisition shall be conclusive evidence and that land is needed for a "public purpose". This provision completely barred judicial review of acquisition proceedings where the land is acquired for a "public purpose" under the Act, however, excepting where challenge to the notification was on the ground of colourable exercise of power. The finding of the Government u/s 6(3) of the Act is conclusive not only with regard to "public purpose" but also with regard to its need and government's satisfaction.

7. We have noticed that where the acquisition would not serve any "public purpose" or where it was for a "private purpose" then it could be challenged stating that the action is nothing but colourable. After considering the facts of the case and having heard the learned advocates for the parties, it appears to us that the appellant herein has failed to make out a case in this matter to show us that the state has acted or exercised its power colourably. On the contrary, we find that the provisions of Section 6(3) of the Act have been duly taken care of in requisitioning the land in question and ultimately award was passed by the LAO in accordance with law. We have also noticed that award has already been published in the matter and property has also been vested in the Government. In these circumstances, we do not find that the impugned action of the authorities in acquiring the land can be said to be either in violation of the principles of natural justice or the impugned action of the state authority can be termed as a colourable exercise of power in adopting such acquisition proceedings. In this view of the matter, we are of the opinion that the order of the learned single Judge does not suffer from any illegality or irregularity warranting interference by us. We, therefore, find no merit in the appeal and it is accordingly dismissed. No costs.