

(2011) 12 AP CK 0089
In the Andhra Pradesh High Court
Case No : Writ Petition No. 34083 of 2011

M. Rajendra Kumar and others	Vs	APPELLANT
State of Andhra Pradesh and others		RESPONDENT

Date of Decision : 26-12-2011

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4(1), 6

Citation : (2012) 2 ALD 326 : (2012) 4 ALT 715

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : Vedula Venkata Ramana, for the Appellant;

Final Decision : Dismissed

Judgement

C.V. Nagarjuna Reddy

1. This writ petition is filed for a mandamus to declare the action of the respondents in acquiring part of the petitioners' buildings as per notifications bearing No. D3/266/2007, dated 26.02.2007, and 18.12.2007, as illegal and arbitrary. The petitioners sought for the consequential relief of setting aside award, dated 19.12.2009, passed by respondent No. 4 insofar as it relates to the petitioners' buildings bearing Nos. 6-1-1062/5 to 11 and 6-1-1062/12 to 17, inclusive of 6-1-1062/10/B and 6-1-1062/2/A of Lakdikapool, Hyderabad.

2. I have heard Sri Vedula Venkata Ramana, learned Senior Counsel appearing for the petitioners, and perused the record.

3. The petitioners are the respective owners of the above-mentioned premises, which were notified for acquisition under the impugned notification issued on 26.02.2007. It is not in dispute that several writ petitions were filed since the issuance of the said notification for different reliefs concerning the acquisition. The last of such writ petition is W.P. No. 14345 of 2011, wherein the following relief was claimed:

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate order or orders direction more particularly one in the nature of writ of mandamus declaring the action of respondent Nos. 1, 2 and 3 in threatening to demolish the petitioner's shop without passing any final orders on the representation of the petitioners dated 28.04.2011 or without following any principles of natural justice as illegal and arbitrary.

4. this Court after thorough hearing of the writ petition dismissed the same by a detailed judgment, dated 12.10.2011. In the said judgment, following issues were framed for consideration:

1. Whether the respondents have discriminated against the petitioners in seeking to acquire their properties?

2. Whether the property bearing premises No. 6-1-1062/12 to 17, 6-1-1062/B and 6-1-1062/2/A are covered by the acquisition?

3. Whether the petitioners had knowledge of the acquisition proposals in respect of their properties and they have acquiesced in raising objection for the first time by way of a reply affidavit in this writ petition? and

4. Whether the acquisition proceedings are liable to be interfered with on the ground of hardship to the petitioners?

5. All the issues were held against the petitioners. Under Issue No. 1, this Court held that the respondents have not shown any discrimination against the petitioners in acquiring the properties. Under issue Nos. 2 and 3, this Court held that the petitioners have acquiesced in canvassing the formal defects crept in the acquisition proceedings at this far too belated stage where the award has been passed and the acquisition proceedings got concluded. this Court also held that the petitioners have not questioned any of the proceedings i.e., notification u/s 4(1) of the Land Acquisition Act, 1894 (for short "the Act"), the declaration u/s 6 of the Act and the award, in the writ petition. Under issue No. 4, this Court had taken note of the imminent need for acquiring the properties and held that the acquisition of the petitioners' property in easing the traffic has to be viewed in overwhelming public interest and that therefore the acquisition proceedings are not liable for interference on the ground of hardship to the petitioners.

6. The petitioners pleaded that questioning the said judgment, they have filed W.A. No. 831 of 2011, and that the same was heard and judgment was reserved by a learned Division Bench of this Court.

7. The petitioners have embarked upon filing the present writ petition by raising various purported legal infirmities in the publication of notice u/s 4(1) of the Act, declaration u/s 6 of the Act and making of the award. In my opinion, having already questioned the acquisition proceedings earlier, though not in the same form, as framed in the present writ petition and suffered findings on merits relating to the validity of the acquisition proceedings, the petitioners cannot be

permitted to initiate another round of litigation by filing a fresh writ petition by recasting the prayer. Even before W.P. No. 14345 of 2011 was filed, the entire cause of action on the basis of which the present writ petition has been filed has already arisen. Therefore, nothing prevented the petitioners from seeking the same prayer which has been sought in the present writ petition in various previous writ petitions, including W.P. No. 14345 of 2011.

8. The doctrine of res judicata is based on public policy and the main purpose of the doctrine is that once the matter has been determined in the former proceeding, it should not be open to the parties to re-agitate the same again and again. In *Ishwar Dutt Vs. Land Acquisition Collector and Another*, the Supreme Court held that one of the main purposes of the doctrine of res judicata is that once the matter has been determined in the former proceeding, it should not be open to the parties to re-agitate the same again and again and res judicata comprises cause of action estoppels and issue estoppels. In *Mathura Prasad Bajoo Jaiswal and Others Vs. Dossibai N.B. Jeejeebhoy*, the Supreme Court held -"a previous decision on a matter in issue is a composite decision: the decision on law cannot be dissociated from the decision on facts on which the right is founded. A decision on an issue of law will be res judicata in a subsequent proceeding between the same parties, if the cause of action of the subsequent proceeding be the same as in the previous proceeding....".

9. Having regard to the above legal settled position, the present writ petition is barred by cause of action estoppels. As noted above, the entire cause of action on which the present writ petition is founded has arisen by the time when W.P. No. 14345 of 2011 was filed. Therefore, the petitioners cannot be permitted to litigate again and again on the same cause of action.

10. For the above-mentioned reasons, the writ petition is dismissed.

11. As a sequel to dismissal of the writ petition, W.P.M.P. No. 42408 of 2011 is disposed of as infructuous.