
(2013) 02 AP CK 0093

In the Andhra Pradesh High Court

Case No : Writ Petition No. 5222 of 2013

Madala Rama Rao and Others

APPELLANT

Vs

District Collector and Others

RESPONDENT

Date of Decision : 21-02-2013

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4(1), 5A

Citation : (2013) 5 ALD 117 : (2013) 6 ALT 287 : (2013) ALT(Rev) 446

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

Bench : Single Bench

Advocate : P.N. Murthy, for the Appellant;

Judgement

C.V. Nagarjuna Reddy, J.—This is a third round of litigation pertaining to the proposed acquisition of the petitioners' lands for the purpose of providing house sites to weaker sections. A notification u/s 4(1) of the Land Acquisition Act, 1894 (for short "the Act") was issued in the year 2006 in respect of Acs. 4-00 of land in RS Nos. 184/1, 271/1, 271/2, 271/3, 271/4, 271/5 and 271/7 of Angaluru Village, Gudlavalleru Mandal, Krishna District. Writ Petition No. 11882 of 2006 was filed questioning the action of the respondents in dispensing with the enquiry u/s 5-A of the Act. The said writ petition was disposed of by this Court by order, dated 15.6.2006, by holding that no urgency was involved for dispensing with the enquiry u/s 5-A of the Act and an enquiry was directed to be held. Accordingly, enquiry was held and an order was passed by the Revenue Divisional Officer-respondent No. 2 rejecting the petitioners' objections. Questioning the said order, the petitioners filed WP Nos. 23548 and 24953 of 2006. This Court has granted interim order in the said cases, as a result of which, the land acquisition proceedings could not be proceeded. Eventually, this Court by common judgment, dated 3.7.2012, disposed of the said writ petitions on the short ground that respondent No. 2 has no jurisdiction to pass order u/s 5-A of the Act on the objections of the petitioners and that it is only the Collector who is competent to pass such order. The Collector was, accordingly, directed to

consider the objections of the petitioners and pass appropriate order. Following the said judgment, respondent No. 1 has considered the objections of the petitioners and passed the order, whereby the said objections were rejected. This order is impugned in this writ petition.

2. At the hearing, Sri P.N. Murthy, learned Counsel for the petitioners, submitted that petitioner No. 1 is an Ex-service man and petitioner Nos. 2 to 4 are small farmers and that acquisition of their lands leaving the lands of wealthy pattadars is arbitrary. He has further submitted that in the impugned order, respondent No. 1 has failed to consider the petitioners' objections in a proper manner.

3. Learned Assistant Government Pleader for Land Acquisition, opposing the said submissions, argued that the respondents needed a compact block of Acs. 4-00 of land for providing house sites to weaker sections with all amenities such as roads, electricity and other infrastructural facilities and that the alternative lands suggested by the petitioners are not useful and viable. She further submitted that proper reasons, though brief, were assigned by respondent No. 1 and that as the petitioners' objections have received proper consideration, the impugned order is not liable to be interfered with.

4. I have carefully considered the respective submissions of the learned Counsel for the parties.

5. Section 5-A of the Act provides for a fair opportunity to the land owners to raise objections to the proposed acquisition. While exercising jurisdiction under Article 226 of the Constitution of India, this Court is concerned with whether such an opportunity has been afforded and the order rejecting the objections was passed by taking relevant considerations into account or the same is based on reasons which are not germane for the decision making. If the Court is satisfied that the Collector has applied his mind and taken a conscious decision after considering the relevant aspects, it will seldom interfere with the merits of the decision.

6. In their objections filed before respondent No. 1, the petitioners have mainly pleaded that alternative lands in Survey Nos. 78 and 272 are available and that, therefore, proposed acquisition of the petitioners' lands is arbitrary and illegal. The petitioners have filed a statement showing availability of the Government lands in Angaluru Village. A perusal of this statement shows that Survey No. 78/1 comprises Ac. 1-30 cents and Survey No. 78/3 comprises Ac. 0.56 cents, which are classified as "payakanadoddi" (land used for attending to nature calls). Survey No. 272/1 comprises Ac. 1-51 cents classified as "grama kantam". Apart from the question whether these lands are suitable or not, it is not the pleaded case of the petitioners that they are all situated contiguous to each other. Moreover, even if the total extent of these survey numbers is considered, it will not constitute Acs. 4-00, which is required by the respondents. In the impugned order, respondent No. 1 has observed that Rs. No. 78/1 is a village site and has been in the enjoyment of eligible poor families for the last 40 years and that the

same does not serve the present purpose. He has further observed that after due verification of all the lands in the Village by the Mandal Revenue Officer, Gudlavalleru and the Revenue Divisional Officer, Gudivada, the present lands were proposed for acquisition, considering all the aspects such as roads, electricity and infrastructure facilities, as the said lands are more suitable than that of the lands suggested by the petitioners.

7. The petitioners have not attributed specific mala fides against any particular functionary in picking and choosing their lands even though a vague allegation is made that in order to avoid the lands of wealthy pattadars, the petitioners' lands are sought to be acquired. Such a vague allegation cannot be given credence to in the absence of specific allegation supported by any material. Even though acquisition of lands belonging to Ex-service men and small farmers need to be avoided as far as possible, there is no absolute bar on acquisition of their lands if no other suitable alternative lands are available.

8. In the face of the above discussed facts, which clearly show that the lands to an extent of Acs. 4-00 situated as a compact block required for providing house sites with all infrastructure facilities are not available elsewhere, the respondents have found it inevitable to acquire the petitioners' lands. Since the power of eminent domain is vested in the State, this Court would not ordinarily interfere with such power unless the same is exercised in an arbitrary and irrational manner.

9. Having carefully considered the facts in detail, this Court is convinced that the respondents have not acted either arbitrarily or irrationally in acquiring the lands of the petitioners.

10. For the above-mentioned reasons, I do not find any merit in the writ petition and the same is, accordingly, dismissed. As a sequel to dismissal of the writ petition, WPMP No. 6507 of 2013 filed by the petitioners for interim relief is dismissed as infructuous.