
(1977) 08 AP CK 0005
In the Andhra Pradesh High Court
Case No : Writ Petition 1120 of 1976

Tamma Koti Reddy

APPELLANT

Vs

The District Collector, Krishna District and others

RESPONDENT

Date of Decision : 05-08-1977

Acts Referred:

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

Citation : (1977) 08 AP CK 0005

Hon'ble Judges : Gangadhara Rao, J

Bench : Single Bench

Advocate : A. Panduranga Rao, for the Appellant;

Final Decision : Allowed

Judgement

Gangadhara Rao

1. The Collector, Krishna District, sought to acquire the lands of the petitioner for providing a burial ground for the Harijans of a village. He published notification u/s 4(1) of the Land Acquisition Act on 9-2-1976 in the Krishna District Gazette. Questioning those proceedings, the petitioner has filed this writ petition. It is submitted by the learned counsel for the petitioner that under Act No. 22 of 1976 (The Land Acquisition (Andhra Pradesh Amendment) Act, 1976) power is given to the District Collector to acquire lands only for the construction, extension or improvement of any dwelling house for the poor but not for providing burial grounds for them. I agree with his contention. Section 3 of Act 22 of 1976, reads as follows:

For the purpose of acquisition of land for the construction, extension or improvement of any dwelling house for the poor the principal Act shall have effect in relation to such acquisition subject to the following modifications, namely:--

(1) in section 4,--

(a) in sub-section (1), after the words "appropriate Government" the words "or the District Collector" and after the words "Official Gazette, the words or the District Gazette" shall be inserted:--

(b) in sub-section (2), after the words "such Government" the words "or the District Collector" shall be inserted;

(2) in section 6,--

(a) for sub-section (1), the following sub-section shall be substituted, namely..."(1) where the appropriate Government or the District Collector is satisfied that any particular land is needed for the purpose of construction, extension or improvement of any dwelling house for the poor, a declaration shall be made to the effect under the signature of a Secretary to such Government or any other officer duly authorised to certify their orders or the District Collector as the case may be, and different declarations may be made, from time to time in respect of different parcels of land covered by the same notification u/s 4, sub-section (1);

Provided that no declaration shall be made unless the compensation to be awarded for such property is to be paid wholly or partly out of public revenues or some fund controlled or managed by a local authority,

2. This Section shows that the principal Act shall have effect in relation to such acquisition subject to the modifications mentioned in the section. Therefore, it is obvious that if the purpose of acquisition of the land is not for the construction, extension or improvement of any dwelling house for the poor, the said modifications will not come into play. It is also evident from the words in the Section "in relation to such acquisition." It is only by virtue of this Act, the Collector is empowered to acquire land for the construction, extension or improvement of any dwelling house for the poor. Burial ground is not a construction, extension or improvement of a dwelling house for the poor. Therefore the Collector has no power to acquire the land for a burial ground.

3. It is not the case of the Government that under Sub-section (2) of Section 3 of Act 22 of 1976, the State Government by a notification has delegated its power to the District Collector to acquire lands for a burial ground.

4. It is submitted by the learned Government pleader that acquisition of land for burial ground is also for extension or improvement of a dwelling house for the poor. I do not agree. In the result, I quash the proceeding in Re. No. 69-84/76 dated 22-1-1976 published in the Krishna District Gazette dated 9th February, 1976. The writ petition is allowed, but in the circumstances of the case, without costs.