

(2012) 04 AP CK 0008
In the Andhra Pradesh High Court
Case No : Writ Petition No. 3954 of 2010

V. Buchi Rajam and others

APPELLANT

Vs

The State of Andhra Pradesh and others

RESPONDENT

Date of Decision : 03-04-2012

Acts Referred:

Land Acquisition Act, 1894 — Section 17(4), 4(1), 5A, 6

Citation : (2012) 4 ALD 442 : (2012) 5 ALT 114

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : Mohd. Vasi Ahmed, for the Appellant;

Judgement

L. Narasimha Reddy, J.—The petitioners are the owners of lands in Kodapur, Kodimial, Cheppiyal and Pudur Villages of Kodimial Mandal, Karimnagar District. The Special Collector, Land Acquisition, issued a notification dated 22.01.2010 u/s 4(1) of the Land Acquisition Act, 1894 (for short, "the Act") proposing to acquire the lands. He invoked the urgency clause u/s 17(4) of the Act and dispensed with the enquiry u/s 5-A thereof. The declaration u/s 6 of the Act was published on 05.02.2010. The petitioners challenge the proceedings on several grounds including the one relating to invocation of the urgency clause. They contend that the alignment of the canal was designed in such a way that it passes through a private land, though a vast extent of Government land is available. They further submit that the acquisition would result in deprivation of their only source of livelihood. In the counter affidavit filed on behalf of the respondents, it is stated that the urgency clause was invoked to complete the project at the earliest.

2. Heard learned counsel for the petitioners and learned Government Pleader for Land Acquisition.

3. The officials of the Irrigation and Revenue Departments virtually have become insensitive to the rights of the citizens particularly in the Telangana Area. The

enquiry u/s 5-A of the Act is the only protection available to a citizen in the context of compulsory acquisition. Section 17(4) of the Act provides for dispensing with the enquiry only when the execution of work cannot wait for 30 days, which is needed for such enquiry. It is to be invoked in cases such as where the river suddenly changes its course, or where the land is needed for emergency purposes.

4. The present acquisition is for an Irrigation Project. Judicial notice can be taken of the fact that not a drop of water has been let off into canals, which were dug and lined with cement concrete, about 20 years ago. Many such canals constructed by spending huge amounts of public revenues have turned out to be dump yards. The only impression that can be gained is that the predominant object in executing such projects is to enable the contractors to earn sufficient revenues that too by borrowing huge amounts from the World Bank and other Agencies. Unfortunately, the political executive is pursuing some other objectives and the official executive is becoming insensitive to the problems of the citizens.

5. It is just unimaginable that a Special Deputy Collector feels that the enquiry u/s 5-A of the Act is unnecessary in matters of this nature. In the ultimate analysis, the urgency expressed by his contractors is becoming the driving force for the Special Collectors to issue notifications by dispensing with the enquiry u/s 5-A of the Act.

6. Hence, the writ petition is allowed by imposing costs of Rs. 10,000/- against the Special Deputy Collector and the declaration u/s 6 of the Act is set aside. The petitioners shall be entitled to submit their representations. If it is found that the concerned authorities do not consider the objections dispassionately, they too shall be held liable for the escalation of costs or other damages, personally. The miscellaneous petition filed in the writ petition also stands disposed of. There shall be no order as to costs.