
(2008) 09 AP CK 0034
In the Andhra Pradesh High Court
Case No : Writ Petition No. 29 of 2008

V. Bujjamma

APPELLANT

Vs

District Collector and Another

RESPONDENT

Date of Decision : 22-09-2008

Acts Referred:

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

Citation : (2008) 6 ALD 757

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : P. Gangarami Reddy, for the Appellant; Government Pleader for Land Acquisition, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—The petitioner owns an extent of Acs.9-00 of land in Gangapatnam Village of Nellore District. The District Collector, Nellore, the 1st respondent, published a notification u/s 4(1) of the Land Acquisition Act (for short "the Act") on 18.10.2007 in Telugu Newspapers, proposing to acquire Acs.6-00 of land of the petitioner. A notice u/s 5A of the Act was served upon the petitioner on 27.11.2007. Petitioner submitted her explanation. Thereafter, the 1st respondent published a notification, u/s 6 of the Act on 28.12.2007, for acquisition of the said land. The petitioner challenges the notifications published under Sections 4(1) and 6 of the Act. She contends that in the recent past, the Government acquired Acs. 17-00 of land, in the same village, for providing house sites and it is not necessary to acquire any further land. She contends that the land is covered by coconut trees and toddy topes, that she is a small farmer, and none of these objections were taken into account, by the respondents.

2. A detailed counter-affidavit is filed on behalf of the respondents. The particulars of the dates of notifications, under Sections 4(1) and 6 of the Act, are furnished. The plea of the petitioner that she is a small farmer is denied. They contend that the proceedings do not suffer from any illegality or infirmity.

3. Heard Sri P. Gangarami Reddy, learned Counsel for the petitioner, and learned Government Pleader for Land Acquisition.

4. Acquisition of land for public purposes, is not a new phenomenon. The right of eminent domain vested in the State used to be exercised, only when acquisition of land is essential for public purposes. Guidelines were also issued, from time to time, to the effect that fertile agricultural lands held by small farmers shall be spared from acquisition. There is an underlying social object, in discouraging the acquisition of agricultural lands for non-agricultural purposes. It is a matter of common knowledge that once an agricultural land is acquired for any other use, the activity of agriculture vis-a-vis that land is gone, once for all. To that extent, the society at large is deprived of the agricultural produce. The matter cannot be viewed from the point of view of the owner alone. If, for instance, Acs. 10-00 of double crop wet land in a village is acquired, for non-agricultural purposes, not only the owner, but the entire society is denied of hundreds of bags of grain. Further, in these days of heavy pressure on land, it is very difficult to imagine that any addition would be made to the cultivable area.

5. The need for providing house sites is no doubt pressing, however, before any agricultural land is brought under that use, serious thought must be given by the concerned. In the name of immediate necessity for shelter to some, the long term requirement of the society, in terms of food security, cannot be ignored.

6. The petitioner categorically stated in Paragraph 4 of her affidavit that in the recent past, an extent of Acs. 17-00 of land was acquired in the village, for the purpose of house sites, and that a major part of it is still available, for being distributed to eligible beneficiaries.

7. The counter-affidavit is blissfully silent, on this important aspect. Even assuming that the petitioner is not a small farmer, the respondents were under obligation to examine whether any land is available for being distributed as house sites. In the recent past, instances are emerging, whereunder the list of alleged beneficiaries is increasing manifold, and names of the persons, who own houses, or those who constructed their houses with Government aid, are also included. If indiscriminate acquisition is resorted to, there is every likelihood of imbalances emerging in the village.

8. Since the important averment in the writ affidavit, filed in support of the writ petition, that vast extent of land, which was already acquired by the Government, is available for distribution for house sites; is not adverted to, an inference is to be drawn that the matter was not examined objectively, and the acquisition was not proper.

9. Hence, the writ petition is allowed, and the impugned proceedings are set aside. There shall be no order as to costs.