
(2002) 02 AP CK 0129

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 2312 of 1998 and Cross-objections W.A. No. 2312 of 1998

Visakhapatnam Urban Development Authority

APPELLANT

Vs

S.S. Naidu and Others

RESPONDENT

Date of Decision : 27-02-2002

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (2002) 02 AP CK 0129

Hon'ble Judges : S.R.K. Prasad, J;S.R. Nayak, J

Bench : Division Bench

Advocate : Sumalini Reddy, for the Appellant; M. Venkata Ramana Reddy, for the Respondent

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—This Writ Appeal and Cross-Objections are directed against the order of the learned Single Judge dated 13.11.1998 made in W.P. No.14818 of 1998.

2. Writ Appeal No. 2312 of 198 is filed by the Visakhapatnam Urban Development authority (for short " VUDA"), the 3rd respondent in the writ petition, whereas the cross-objections are filed by the writ petitioner.

3. In the writ petition, the validity of the Government Order in G.O.Ms. No. 222 M.A. dated 30.4.1998 cancelling its earlier order in G.O.Ms. No. 156 M.A. dated 25.2.1982 as modified by G.O.Ms. No. 121 M.A. 27.2.1990, whereunder the Land Acquisition proceedings were withdrawn is assailed.

4. Among other grounds urged in the writ petition, it was contended by the writ petitioner that the impugned order in G.O.Ms. No. 222 dated 30.4.1998 could not be sustained inasmuch as the said Government Order was issued by the State Government without issuing notice to the petitioner who is the owner of the lands sought to be acquired. The learned Single Judge as a matter of fact found

that the impugned Government Order was issued by the State Government without notice to the writ petitioner. In that view of the matter, the learned Judge keeping open other contentions raised by the parties allowed the writ petition only on the ground of infraction of principles of natural justice and quashed the impugned G.O. reserving liberty to the State Government to consider the matter afresh and pass appropriate orders. Hence this writ appeal and cross-objections by the VUDA and writ petitioner respectively.

5. The learned Standing Counsel for the VUDA would contend that the learned Judge erred in law in quashing the impugned Government Order in G.O.Ms. No. 222 dated 30.4.1998 only on the ground that the said G.O. was issued by the State Government without issuing notice to the writ petitioner and it is not the requirement of law that the Government before issuing the said G.O. should have given notice to the writ petitioner and given him an opportunity to have his say in the matter.

6. The learned counsel for the writ petitioner-cross-objector would contend that the learned Judge ought not to have reserved liberty to the Government to re-consider the matter afresh, because he ought to have seen that G.O.Ms. No. 222 is the one without jurisdiction. The learned Government Pleader for Land Acquisition would also support the contention of the learned Standing counsel for VUDA.

7. The only question that arises for consideration in this writ appeal is whether the learned Single Judge acted irregularly or in violation of law in quashing the impugned Government Order and in reserving liberty to the State Government to re-consider the matter afresh and pass appropriate orders.

8. The affected should be appraised is the cardinal constitutional creed flowing from Article 14 of the Constitution and if the Court finds that the affected was not appraised before an adverse action was taken against him, the Court should necessarily step-in in exercise of its power under Article 226 of the Constitution and correct the impugned proceedings by Certiorari. There is no controversy that the earlier G.O.Ms. No. 121 came to be issued by the Government at the request of the writ petitioner to withdraw the Land Acquisition proceedings. It is trite that under the said order, the writ petitioner is a beneficiary. If that is so, the principles of natural justice and fair play in action would require that before cancelling such beneficial order, the beneficiary should be heard in the matter. Admittedly that has not been done in the instant case. Looking from that angle, no exception can be taken to the order made by the learned single Judge impugned in this Writ Appeal.

9. Adverting to the contention of the leaned counsel for the writ petitioner-cross-objector that the impugned order is one without any authority of law, or jurisdiction, the learned counsel is not in a position to support his plea with reference to any authority of law. Undoubtedly, the State Government has the power to cancel its order in G.O.Ms. No. 121 dated 27.2.1990 by virtue of its

power u/s 48-A of the Act. The question as to whether the Government is justified in cancelling G.O.Ms. No. 121 issued as far as back as on 27.2.1990, in the year 1998 and whether the State acted fairly and reasonably and whether its action would satisfy the postulates of Article 14 of the Constitution are the things to be considered at an appropriate stage. Since the learned Single Judge thought it fit to remand the proceedings, we are not inclined to take up adjudication of these aspects on merits, because these very contentions can be put forth before the State Government for its consideration.

10. In the result and for the foregoing reasons, we dismiss the Writ Appeal as well as the Cross-Objections filed by the writ petitioner. No order as to costs.