

(2003) 08 AP CK 0016

Andhra Pradesh High Court

Case No: Writ Petition No. 25791 of 2002

A. Narsamma and Others

APPELLANT

Vs

District Collector and Others

RESPONDENT

Date of Decision: Aug. 19, 2003

Acts Referred:

- Land Acquisition Act, 1894 - Section 3A, 4(1), 6, 6(1)

Citation: (2003) 6 ALD 247

Hon'ble Judges: V.V.S. Rao, J

Bench: Single Bench

Advocate: O. Manohar Reddy, for the Appellant; Government Pleader for Land Acquisition, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

V.V.S. Rao, J.

The petitioners claim to be the owners of land comprised in S.No. 436-1 admeasuring Acs.4-46 cents situated in Hindupur village. The 1st respondent issued notification under Sub-section (1) of Section 4 of the Land Acquisition Act, 1894 ("the Act" for brevity) proposing to acquire land for a public purpose for establishment of Autonagar in Hindupur. A copy of the notification was published in the local newspapers on 7.11.2001. Thereafter, a declaration was published under Sub-section (1) of Section 6 of the Act on 30.3.2002. These two notifications are assailed in this Writ Petition.

2. It is contended that the notification issued u/s 4(1) and the declaration made u/s 6(1) of the Act by the District Collector are without jurisdiction. Secondly, it is urged that the declaration was made as if the land is being acquired for the purpose of establishment of Autonagar at Hindupur whereas the notification published in the newspapers u/s 4(1) shows that the land is proposed to be acquired for providing

house sites to persons belonging to weaker sections.

3. In the counter-affidavit filed along with the vacate stay application, it is stated that the notification issued u/s 4(1) was for acquiring land for establishment of Autonagar. However, the newspapers committed a mistake in publishing the same by showing that the land is being acquired for providing house sites. However, it is sought to be justified on the ground that the declaration made u/s 6(1) of the Act was correctly issued proposing to acquire the land for establishment of Autonagar and, therefore, the notifications are not vitiated by any illegality.

4. Whenever the land is required for public purpose, the Government has to issue a notification u/s 4(1) of the Act and publish it in the official gazette to the effect that such land is needed for such public purpose. The notification u/s 4(1) of the Act, as published in the official gazette, shall have to be necessarily published in two daily newspapers circulated in the locality, one of which at least shall be in the regional language. The third step is publication of substance of the notification, at a convenient place in the locality where the land is situated, u/s 6(1) of the Act. The Government or the other competent authority has to publish a declaration after publishing the notification u/s 4(1) of the Act in the locality. However, no declaration u/s 6(1) can be made after the expiry of one year from the date of publication of the notification u/s 4(1) of the Act subject, however, to the condition that if the notification u/s 4(1) is stayed by the Court, the period during which the stay operates shall be excluded.

5. As seen from the above, in this case, there is no valid publication of the notification u/s 4(1) of the Act in two daily newspapers circulated in the locality. The notification u/s 4(1) of the Act published in the official gazette on 15.10.2001 (copy of which is produced before this Court) and the notification published in the newspapers on 7.11.2001 are different. The public purpose for which the notification u/s 4(1) of the Act was published is different from the public purpose published in the local newspapers. Though the 30.3.2002, the same must be held to be not in accordance with law as the same is published without there being a valid publication of notification u/s 4(1) of the Act. Therefore, the only recourse available to the respondents is to publish the notification u/s 4(1) of the Act in two local newspapers correctly and then issue the declaration u/s 6(1) of the Act. However, having regard to the second proviso to Sub-section (1) of Section 6 of the Act, that is also not possible for the respondents because no publication u/s 6(1) can be made after expiry of one year from the date of publication of the notification u/s 4(1) of the Act. Section 4(1) notification was published on 15.10.2001 and there being no valid compliance with Section 4(1) by publishing in two daily local newspapers, the respondents cannot now issue a declaration u/s 6(1) of the Act. In that view of the matter, the entire proceedings lapsed.

6. Insofar as the submission of the learned Counsel for the petitioners that the Collector is not competent to consider, the same is devoid of any merits. Be it noted

that u/s 3-A of the Act, as amended by the A.P. Amendment Act, 22 of 1976, the State Government is competent to delegate any power conferred or any duty imposed on them to the District Collector. Further, u/s 3-C, the expression "Collector" means the Collector of a District, Deputy Commissioner or any Officer specifically appointed by the appropriate Government to perform the functions of the Collector under the Act.

7. This Court, in Writ Petition No. 27731 of 1995 dated 8.7.2003, considered a similar issue wherein it was held that the District Collectors are authorized to exercise powers vested in the State Government under Sections 5-A and 17(4) of the Act and the relevant portion of the order reads as under:

"In exercise of their powers u/s 3-A of the Act, the Government of Andhra Pradesh issued G.O. Ms. No. 1378, dated 15.10.1975 authorising the District Collectors to exercise powers vested in the State Government u/s 5A of the Act and Section 17(4) of the Act for the purpose of acquisition of land for construction of any dwelling houses for the poor. By G.O. Ms. No. 96, dated 20.1.1976 the Government, in exercise of their powers u/s 3(c) of the Act, appointed Revenue Divisional Officers, Tahsildars and Revenue Block Development Officers in their respective jurisdictions to perform functions of Collector under the Act for the purpose of acquisition of lands for dwelling houses to the poor.

x x x

In Ch. Venkataratnam v. State of Andhra Pradesh, 1985 (2) ALT 84(NRC) . His Lordship Hon"ble Sri Justice M. Jagannadha Rao (as he then was) considered the question whether it is competent for Tahsildar to conduct enquiry u/s 5A and submit report to the Collector. After referring to G.O. Ms. No. 1378, dated 15.10.1975, His Lordship held as under:

Section 3A of the Act permits delegation of the functions of the Government to the District Collectors and in exercise of that power the Governor of Andhra Pradesh has delegated to the District Collector the authority to take a decision u/s 5A(2) of the Land Acquisition Act in cases relating to construction, extension or improvement of any dwelling house for the poor. The Tahsildar has ample jurisdiction to conduct enquiry u/s 5A and submit the report to the Collector, who, in his turn, was delegated with the powers of the Government u/s 3A read with G.O. Ms. No. 1378 Rev.(K), dated 15.10.1975 to take a decision on the report. A copy of the report of the Land Acquisition Officer prepared u/s 5A need not be supplied to the petitioner."

8. Learned Assistant Government Pleader for Land Acquisition has placed before the Court the notification issued by the Government of Andhra Pradesh u/s 3-A of the Act delegating the powers to the District Collector for acquiring lands for A.P. Industrial Infrastructure Corporation for establishing the industrial estates and Autonagar in Hindupur. In view of the said notification delegating powers, it is permissible for the Collector to issue notification u/s 4(1) of the Act.

9. In the result, in view of finding on second submission, the writ petition succeeds and is accordingly allowed. No order as to costs.