
(2008) 6 ALD 801

Andhra Pradesh High Court

Case No: Writ Petition No. 18659 of 2008

Ch. Lokanadh

APPELLANT

Vs

District Collector, Land
Acquisition Officer cum
Revenue Divisional
Officer and Tahsildar,
Podur Mandal

RESPONDENT

Date of Decision: Sept. 1, 2008

Acts Referred:

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

Citation: (2008) 6 ALD 801

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: N. Subba Rao, for the Appellant; GP, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.

The petitioner is the owner of an extent of Acs.2.23 cents of land situated in survey No. 327/2 of Pandit Villuru

Village, Podur Mandal, West Godavari District. The first respondent issued a notification, dated 27.04.2007, proposing to acquire the said land,

along with two other bits of one Mr. Samayamanthula Satya Naga Venkata Subramanya Janaraja Gupta. A notice u/s 5A of the Land Acquisition

Act, 1894 (for short "the Act") inviting objections, was issued. The petitioner states that he submitted his objections within the stipulated time, and

so far, no declaration u/s 6 of the Act was issued. He contends that with the expiry of one year from 24.07.2007, it becomes impermissible for the

respondents to issue declaration. Reliance is placed upon 1st proviso to Sub-section (1) of Section 6 of the Act, as amended by the A.P. State

Legislature.

2. Sri N. Subba Rao, learned Counsel for the petitioner, submits that with the expiry of one year from the date of notification, the notification

issued u/s 6 of the Act virtually becomes inoperative or invalid.

3. Learned Government Pleader for Land Acquisition obtained instructions at the stage of admission and made extensive submissions. It is pleaded

that the owner of the other land, which is notified for acquisition under the same notification, filed W.P. No. 1183 of 2007 before this Court and an

order of interim stay was in force between 11.06.2007 and 17.01.2008. According to her, the respondents have time till 02.12.2008 to publish

notification u/s 6 of the Act, inasmuch as the period during which the stay operated has to be excluded.

4. The notification issued proposing to acquire the land of the petitioner and the land of another individual was published on 27.04.2007. The A.P.

State Legislature amended Section 6 of the Act to the effect that a declaration u/s 6 of the Act must be published within one year from the date of

publication of notification u/s 6 of the Act. The consequences of non-publication are also provided for under 1st proviso to Sub-section (1) of

Section 6 of the Act. It reads as under:

Provided that no declaration in respect of any particular land covered by a notification u/s 6, Sub-section (1):

(i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967) but before the

commencement of the Land Acquisition (Amendment) Act 1984 shall be made after the expiry of three years from the date of the publication of

the notification; or

(ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984 shall be made after the expiry of one year from the date of

the publication of the notification:

Provided further that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or

wholly or partly out of public revenue of some fund controlled or managed by a local authority.

[Explanation 1:- In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in

pursuance of the notification issued u/s 6, Sub-section (1), is stayed by an order of a Court shall be excluded.

Explanation 2:- Where the compensation to be awarded for such property is to be paid out of the funds of a corporation owned or controlled by

the State, such compensation shall be deemed to be compensation paid out of the public revenues].

5. From a perusal of this, it becomes clear that a notification u/s 6 must be published within a period of one year and failure in this regard, would

entail in the notification u/s 6(1) becoming inoperative, or invalid, in law.

6. It may be true that the owner of another item of land, which was sought to be acquired through the same notification, had filed writ petition and

obtained interim order on 11.06.2007. The Act itself provides for exclusion of the period, during which, any order of stay operated, in the context

of calculating the one year from the date of publication of notification u/s 4(1) of the Act. That, however, would operate only against the person

who obtained such an order. The mere fact that the land of the petitioner is covered by same notification hardly constitutes any justification for non-

compliance with the provisions of the Act, vis-à-vis the land of the petitioner.

7. On this short ground, the Writ Petition is allowed and the notification, dated 27.04.2007, insofar as it relates to the land of the petitioner, is set

aside. It is, however, made clear that it shall be open to the respondents to issue fresh notification u/s 4(1) of the Act, if they intend to acquire the

land of the petitioner. There shall be no order as to costs.