

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO:3214 of 1999

Dated: 31-10-2007

Between:

The A.P.United Teachers Federation,
Chittoor District unit.

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AND

The Government of A.P., rep by,
Secretary, Animal Husbandry & Fisheries
(Diary II) Department, Hyderabad.
and others.

.....Respc

Counsel for the petitioner : Sri V.Ajay Kumar

Counsel for the respondents : A.G.P., for Land Acquisition

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HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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WRIT PETITION No.3214 of 1999
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ORDER:

This writ petition is filed for a writ of mandamus to declare the notification issued under Section 4(1) of the Land Acquisition Act 1894 (for short "the Act") and the declaration dated 6.2.1999 made under Section 6 of the Act to the extent it relates to proposal to acquire an extent of Ac.5.22 cents of land in survey No.10-2A to 10-2I as illegal, arbitrary and violative of Article 300-A of the Constitution of India.

The averments contained in the affidavit filed in support of the writ petition are that the petitioners purchased an extent of Ac.5.22 cents covered by survey Nos.10-2A to 10-2I situated in Avilala village, Tirupathi, Chittoor district under different registered sale deeds in the years 1993 to 1995. The said lands were notified for acquisition under the notification issued under Section 4(1) of the Act which was published in the daily newspapers on 7.11.1998. The main plea of the petitioner is that there are other government lands available for establishment of a second diary unit and that the respondents hastily dispensed with the enquiry under Section 5A of the Act.

A counter affidavit has been filed by the Revenue Divisional Officer, Tirupathi in which it is inter alia mentioned that for establishment of second diary plant, certain private lands in addition to government lands are sought to be acquired. It is further stated that the government lands are also being utilized for the purpose of establishment of diary unit.

Heard Sri V.Ajay Kumar, learned counsel for the petitioner and learned Assistant Government Pleader for Land Acquisition for the respondents.

The main grievance of the petitioner as projected during the course of the argument by the learned counsel for the petitioner is that there was absolutely no necessity of dispensing with the enquiry under Section 5A of the Act by invoking urgency clause under Section 17(4) of the Act. He submitted that the purpose of acquisition, namely, establishment of a diary unit is not of that urgent nature which does not brook deal in holding enquiry. I am in complete agreement with this submission of the learned counsel. Under the

provisions of the Act the properties are acquired compulsorily against the will of their owners. This power of eminent domain vested in the State cannot be exercised arbitrarily. The Act provides for elaborate procedure for forcible acquisition of the land. The power to invoke urgency clause cannot be exercised in a routine manner unless genuine urgency is involved. In my considered view, acquisition of land for the purpose of establishing a dairy plant is not that emergent in nature which calls for dispensing with an enquiry under Section 5A of the Act. Another reason which weighs with this court in coming to this conclusion is that this writ petition was admitted on 18.2.1999 and in view of the order of status quo passed by this Court, the respondents were disabled from proceeding further with the acquisition of the land. Since 8 years had already elapsed, I do not see any reason why an enquiry shall not be held under Section 5A of the Act before the respondents taking a final decision on the acquisition of the land.

For the aforementioned reasons, the writ petition is partly allowed. The declaration made under Section 6 of the Act is set aside and the respondents are directed to hold an enquiry under Section 5A of the Act in accordance with the provisions of the Act.

C.V.NAGARJUNA REDDY,J

Date:31.10.2007
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