

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT
HYDERABAD**

(Special Original Jurisdiction)

**MONDAY, THE 31ST DAY OF MAY,
TWO THOUSAND AND TEN**

PRESENT

**HON'BLE SRI JUSTICE A.GOPAL REDDY
AND
HON'BLE SRI JUSTICE RAJA ELANGO**

WRIT PETITION No.10386 of 2010

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Between:

Sri Rai Bahadur Dwarakanath Kakar Public Trust, represented by its
Secretary/Trustee Major Mrs.Lata Kakar and another.

... Petitioners

And

Special Court under A.P.Land Grabbing (Prohibition) Act, 1982 and others.

... Respondents

This Court made the following:

**HON'BLE SRI JUSTICE A.GOPAL REDDY
AND
HON'BLE SRI JUSTICE RAJA ELANGO**

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WRIT PETITION No.10386 OF 2010

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ORDER: - (Per Hon'ble Sri Justice A.Gopal Reddy)

Petitioners/party-in-person invoked the Certiorari jurisdiction of this Court for quashing the orders passed by the Special Court under the provisions of A.P. Land Grabbing (Prohibition) Act, 1982 (for short, "the Act"), Hyderabad in L.G.C.No.24 of 2008, dated 18.06.2008, wherein the Special Court passed the following order:

"The Special Court has taken cognisance of the case under Section 8(1) of the A.P. Act XII of 1982 having been satisfied of prima-facie evidence and the material furnished in the application and considering the location,

extent and the value of the land alleged to have been grabbed and the substantial nature of the evil involved and in the interest of justice.

Issue gazette notification under Section 8(6) of the Act calling for objections, if any, by 16.04.2007. The learned counsel for the applicant is directed to deposit a sum of Rs.2,000/- towards notification charges within one week.”

We have heard the party-in-person and the learned counsel for the 4th respondent-applicant in the L.G.C.

A Full Bench of this Court in ***Mohd. Siddiq Ali Khan v. M/s.Shahsun Finance Limited***^[1], on question No.3 namely whether the Special Court is required to follow the procedure under rules 6 and 7 of the Andhra Pradesh Land Grabbing (Prohibition) Rules 1988, (for short, “the Rules”) before taking cognizance of a case, answered in para 85 as under:

“85. In all cases, wherever, the Special Court takes cognizance of a case suo motu, local inspection or verification shall be after taking such suo motu cognizance by the Special Court, as is evident from a plain reading of Rule 6 of the Rules, which says every application filed under sub-section (1) of Section 8 of the Act or every case taken cognizance of suo motu by the Special Court, and in all other cases, where application filed under sub-section (1) of Section 8 of the Act, the same required to be referred for local inspection or verification or both by the Mandal Revenue Officer even before taking cognizance of the case. The portion of Rule 6 of the Rules, “or every case taken cognizance of suo motu by the Special Court“, if not be read, the Rule 6 of the Rules would read: “every application file under sub-section (1) of Section 8 of the Act or on application filed under sub-section (1) of Section 7-A of the Act, before the Special Tribunal, may be referred for local inspection or verification or both by the Mandal Revenue Officer having jurisdiction over the area or by any other Officer of the Government authorised by the Court in this behalf”.

While holding so, it was held that the Special Court is required

to follow the mandatory procedure as laid down under rule 6 of the Rules before taking cognizance of a case.

Admittedly, in the instant case, the Special Court took cognizance of the case without following the mandatory procedure laid down under rule 6 of the Rules as interpreted above.

Further this Court also in the above case held on question No.2, that an application filed under Section 8 of the Act, which does not disclose cause of action, would be a frivolous petition and liable to be rejected without any further enquiry, which will be known only after receiving the report from the Mandal Revenue Officer, as laid down under rule 6 of the Rules.

In view of the same, the petitioners' valuable right to reject the claim of the 4th respondent, has not been considered by calling the report from the Mandal Revenue Officer, following the mandatory procedure.

Learned counsel for the 4th respondent now contends that since the petitioners are participating in the proceedings and the report was already filed by the Mandal Revenue Officer, pursuant to the impugned order, the petitioners can be permitted to file objections and the trial court can hear the same as to whether the case can be taken cognizance or not.

We are not impressed with the submission made by the learned counsel for the 4th respondent for the reason that any report, which is obtained after taking cognizance, will be a different one with that of the report, which is obtained before taking cognizance.

In view of the same, the impugned order passed by the Special Court, Hyderabad taking cognizance of the case under Section 8(1) of the Act is set aside and the Special Court, Hyderabad is directed to follow the mandatory procedure under rule 6 of the Rules as held by this Court in the above judgment before taking cognizance of the case.

Accordingly, the writ petition is allowed. No costs.

A.GOPAL REDDY, J

RAJA ELANGO, J

31st May 2010
lmv

[\[1\]](#) 2005(2) ALT 503 (F.B.)