

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3634 OF 2012  
[ARISING OUT OF S.L.P. (C) NO. 16980 OF 2010]

DISTRICT COLLECTOR, WEST GODAVARI DIS. & ORS. ... APPELLANT(s)

Versus

S. PICHAPPAN AND OTHERS ... RESPONDENT(s)

O R D E R

We have heard Mr. R. Venkataramani, learned senior counsel for the appellants and Mr. P.S. Narasimha, learned senior counsel for the respondent Nos. 1 to 3.

2. Leave granted.

3. The present appeal by special leave arises from the order dated August 28, 2009 passed by the Division Bench of the Andhra Pradesh High Court whereby it dismissed the appellants' Writ Appeal and affirmed the order of the Single Judge passed on March 23, 2007 allowing the Writ Petition filed by the respondent Nos. 1 to 3 herein.

4. The Collector, District West Godavari, Eluru  
2

issued a Notification on February 22, 2007 under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act") as amended in 1984 indicating therein that the land comprising of survey No. 318/3, ad-measuring 14.56 acres, situate in Yenamadarru Village, Bhimavaram Mandal, West Godavari within the Bhimavaram Municipality was required for public purpose namely; "construction of compost yard". By

that Notification, the Revenue Divisional Officer, Narsapur, staff and workers were authorised to

exercise all powers available under Section 4(2) of the Act. The Notification stated that in view of the urgency of the matter, enquiry under Section 5A of the Act was being dispensed with.

5. Respondent Nos. 1 to 3 (petitioners in the Writ Petition) challenged the above Notification by filing a Writ Petition being CWP No. 5905 of 2007, inter alia, on the ground that the enquiry under section 5A of the Act has been dispensed with mechanically and without due application of mind.

6. The Single Judge of the Andhra Pradesh High Court disposed of the above Writ Petition at the admission stage after hearing the counsel for the petitioners therein and the Government Pleader on March 23, 2007.

7. The appellants filed a Review Petition on June 7, 2007 seeking review of the order dated March 23, 2007. The Review Petition came to be dismissed on April 1, 2009.

8. The appellants preferred a Writ Appeal before the Division Bench and assailed the order of the Single Judge passed on March 23, 2007 which came to be dismissed on August 28, 2009, as indicated above.

9. Although, quite a few events had taken place between February 22, 2007 and August 28, 2009, but for the present purposes, two events are important and need to be noticed viz; (i) On July 9, 2007, the Division Bench of the High Court in a Public Interest Litigation (CWP No. 19351 of 2007) granted three months' time to the present appellants though they had prayed for six months' time to establish the "compost yard" within the limits of Bhimavaram Municipality and (ii) the appellants on their own have issued a notice on August 28, 2009 under Section 5A of the Act

calling upon the objections and in response thereto,  
the respondent Nos. 1 to 3 have filed the objections

4

to the proposed acquisition of their land.

10. Now, since the notice under Section 5A of the Act has been issued by the appellants and objections have been filed by the respondent Nos. 1 to 3, the controversy with regard to the invocation of urgency clause and dispensation of enquiry under Section 5A of the Act has paled into insignificance and effectively does not survive.

11. We have been informed by Mr. R. Venkataramani, learned senior counsel for the appellants that the respondent Nos. 1 to 3 have challenged the issuance of notice under Section 5A before the High Court and certain interim orders have been passed therein and as a result of which the enquiry under Section 5A of the Act could not proceed.

12. Mr. P.S. Narasimha, learned senior counsel for the respondent Nos. 1 to 3 submitted and, in our view fairly, that the respondent Nos. 1 to 3 would immediately take steps in getting the interim orders vacated to enable the concerned authority to proceed with the enquiry under Section 5A of the Act.

13. In view of the above, it is not necessary for us to examine the legality and correctness of the

5

orders passed by the Division Bench and the Single Judge as, in our view, the enquiry now initiated by the appellants under Section 5A of the Act has to be taken to the logical conclusion.

14. We, accordingly, dispose of the appeal by the following order:

(i) The clause in the Notification dated February 22, 2007 with regard to the

dispensation of enquiry under Section 5A of the Act is declared to be ineffective.

(ii) The concerned authority shall now proceed with the enquiry under Section 5A of the Act pursuant to the notice dated August 28, 2009 and shall complete the enquiry as early as may be possible and in no case, later than three months from the date of the production of the certified copy of this order.

15. We accept the statement of Mr. P.S. Narasimha, learned senior counsel that respondent Nos. 1 to 3 shall withdraw the Contempt Petition (C) No. 391 of 2007 which is pending before the High Court.

6

16. No order as to costs.

.....J.  
(R.M. LODHA)

.....J.  
(H.L. GOKHALE)

NEW DELHI  
APRIL 17, 2012.

ITEM NO.1 COURT NO.6 SECTION XIIA

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).16980/2010

(From the judgement and order dated 28/08/2009 in WA No.1114/2009 of The HIGH COURT OF A.P AT HYDERABAD)

DISTRICT COLLECTOR WEST GODAVARI DIS.&OR Petitioner(s)

VERSUS

S.PICHAPPAN & ORS. Respondent(s)

(With appln(s) for permission to file additional documents and permission to bring additional facts and documents on record and with prayer for interim relief and office report )

7

Date: 17/04/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA  
HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s) Mr. R. Venkataramani, Sr. Adv.  
Ms. C.K. Sucharita, Adv.  
Ms. Rumi Chanda, Adv.

For Respondent(s) Mr. P.S. Narasimha, Sr. Adv.  
Mr. S. Srinivas R. Rao, Adv.  
Mr. Abid Ali Beeran, Adv.  
Mr. Sriram P. Adv.  
Mrs. Sudha Gupta, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

Appeal is disposed of in terms of signed order. No  
order as to costs.

(Pardeep Kumar)  
Court Master

(Renu Diwan)  
Court Master

[ SIGNED ORDER IS PLACED ON THE FILE ]