

In Re: Abdul Khader Saheb

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Court : Andhra Pradesh

Decided On : Sep-16-1965

Reported in : AIR1967AP151

Judge : Manohar Pershad and ;Kumarayya, JJ.

Acts : [Constitution of India](#) - Article 226; Land Acquisition Act - Sections 6

Appeal No. : Writ Appeal No. 120 of 1965

Appellant : In Re: Abdul Khader Saheb

Advocate for Pet/Ap. : E. Ayyapu Reddy, Adv.

Judgement :

Manohar Pershad, J.

(1)This Writ Appeal is directed against the decision of our learned brother Gopalakrishnan Nair, J. dismissing the writ petition filed by the appellant herein under Article 226 of the Constitution.

(2) The facts leading to this appeal are: The Government instituted proceedings for compulsory acquisition of a portion of land measuring Ac. 1-98 cents for the purpose of extension of the Muslim burial ground situated in Nandyal Municipality. A notification under S. 6 of the Land Acquisition Act was issued on 18-9-1964. This notification authorized the Land Acquisition Collector (Revenue Divisional

Officer, Nandyal) to take possession of the land under Section 17(1) of the Act. On 24-3-65, the Government issued an order directing the Land Acquisition Collector to drop all proceedings for acquisition of the land. It is the case of the appellant that he has learnt that the Government intend to cancel the notification issued by them under Section 6 of the Act. He therefore asks this Court to issue a Writ of Mandamus, or order or direction to the Government not to drop the proceedings.

(3) Before the appellant can ask this Court to issue a Writ of Mandamus, the appellant shall have to satisfy that he has got a legal right to compel the Government to continue the land acquisition proceedings commenced by them and that the Government is bound to carry out that order. It is not denied that the Government has got a right to withdraw the proceedings; but what is urged by the learned counsel for the appellant is that since the declaration for acquisition was made for a public purpose and the Municipality has acquired that land and taken possession, in those circumstances, it could not withdraw the proceedings. It is no doubt true that the Municipality has taken possession of the land in question and having regard to Section 48(1) of the Land Acquisition Act, the Government could not withdraw the proceedings, but the question that emerges is whether the appellant has any legal right to question this action of the Government. The contention of the learned counsel for the appellant is that since the land was acquired for a public purpose, that is, for the extension of the Muslim burial ground, the appellant has a right being a member of the Muslim community and a rate payer. In this connection, the learned counsel placed his reliance on the case of *Guruswamy v. State of Mysore*, : [1955]1SCR305 and *Venkateswara Rao v. State of Andhra Pradesh*, AIR 1958 Andh Pra 458. We do not agree with the contention of the learned counsel. It may be noted that the acquisition proceedings were started on behalf of the Municipality. The person who is directly interested in the acquisition is therefore the Municipality. Any other person who might get the benefit of the use of the land for a particular purpose in the event of its acquisition cannot be said to be a person having a direct, personal and present interest in the acquisition proceedings or in the land. His interest, if any would be only indirect and remote. In other words, the appellant is not a person who has got any legal right which may be enforced against the Government.

The case of : [1955]1SCR305 was one of public auction where the public had a right to bid. The case of AIR 1958 Andh Pra 458 was one relating to re-distribution of wards for election purposes in which every voter has direct interest. These cases therefore do not help the contention of the learned counsel for the appellant.

(4) As the appellant has no legal right and has no direct, personal and present interest in the acquisition proceedings, he cannot invoke the jurisdiction of this Court under Article 226 of the [Constitution of India](#).

(5) There is therefore no merit in this appeal. It is dismissed.

(6)CJ/LGC/D.V.C.

(7) Appeal dismissed.

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