

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.28546 of 2015

Date: 28.09.2015

Between:

Sajida Begum, D/o Haji Mohammad Karimulla,
R/o Door No.8-2-29, B.R.P.Road, Wynchipeta,
Vijayawada, Krishna District, rep.by this natural
Guardian, Father Haji Mommad Karimulla,
s/o late Haji Abdul Rahiman, Aged about 62 years,
r/o Door No.8-2-29, B.R.P.Road, Panja Centre,
Vijayawada, Krishna District and two others.

.... Petitioners

AND

The State of Andhra Pradesh, Principal Secretary,
Revenue Department, Secretariat Building,
Hyderabad and others.

.... Respondents

This Court made the following:

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ORDER:

Aggrieved by the compulsory acquisition of the land to an extent of 600 square yards each of the petitioners in R.S.No.35/1, Crambay Road, Bhavanipuram, Vijayawada, Krishna District, petitioners instituted this writ petition.

2. It appears that several properties were affected for the purpose of widening of the road. Many of the property owners have agreed for settlement in accordance with the provision contained in Sections 146 & 147 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'Act, 1955') and they were given Transfer Development Bonds. Insofar as petitioners are concerned, they did not agree for such negotiations and to receive Transfer Development Bonds. However, even though petitioners have not agreed and without following due process as required by the Land Acquisition Act, 1894, which was in force at that time and without paying compensation to the petitioners, petitioners land was taken over compulsorily and road was formed.

3. Learned counsel for petitioner submits that similarly situated person invoked jurisdiction of this Court in W.P.No.13901 of 2014. This Court having found the action of the respondent authorities in not following due process and the acquiring the land of the petitioner without paying compensation, allowed the writ petition and directed to initiate proceedings for acquisition of the petitioner's land in accordance with the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, within a period of eight weeks of the petitioner submitting the 2nd respondent the documents of title to the above properties and second respondent was directed to complete the process of acquisition within further period of four months thereafter. The said writ petition concerns the property on the same road.

4. On instructions, learned standing counsel does not dispute the fact that petitioners have not agreed for settlement in accordance with the provisions contained in Sections 146 & 147 of Act, 1955. Though provisions incorporated in Sections 146

and 147 of the Act, 1955 enable acquisition of land by way of private negotiations, it is settled principle of law is that no person can be compelled to negotiate against his wishes. If owner is not willing to negotiate for settlement, it is mandatory for the authority to follow due process before acquiring the private property. Without following due process, no private property can be acquired for public purpose. The principle of law is well settled and needs no reiteration. Admittedly, in the instant case, due process is not followed before utilizing the land of the petitioners.

5. In view of the same, the respondent authorities are directed to initiate proceedings for acquisition of the petitioners land under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 within eight weeks of the petitioners submitting to the 2nd respondent their documents of title to the above properties and the 2nd respondent shall complete the process of acquisition within period of four months thereafter.

Miscellaneous petitions if any pending in the writ petition shall stand closed. There shall be no order as to costs.

_____**JUSTICE P.NAVEEN RAO**

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