

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.21107 OF 2011

ORDER

The case of the petitioner is that he has inherited the property of building with Asbestos sheets of Plot No.84/P, situated at Carl Marx Road, Elicilavari street, Machavaram, Vijayawada and the said property was acquired by the 1st respondent through G.O.Ms.No.430 MA dated 23.09.2002 for road widening purpose. It is stated that the acquisition of petitioner's property was also published in the extraordinary A.P.Gazette No.132 Part I dated 23.02.2002. While so, the petitioner filed W.P.No.22894 of 2002 seeking direction to the respondents to follow guidelines as per the Division Bench Judgment of this Court in W.P.No.20884 of 1997 and the said writ petition was disposed of directing the respondents to follow due procedure contemplated by the Division Bench of this Court. But the respondents instead of following the directions of this Court, issued notice to the petitioner vide proceedings in Rc.No.C2.2401q/S-256/2002 dated 23.06.2003 stating that the owners who surrender their sites on free of cost for widening of the master plan roads, they will be given the benefit of set backs and the FAR. It is also the case of the petitioner that 95% of the land has been acquired and the 2nd respondent once again issued notice dated 17.01.2004 giving the same benefit as stated in the earlier notice dated 23.06.2003. It is also stated that when the 3rd respondent summoned the petitioner to appear before him, the petitioner submitted his representation dated 24.01.2004 stating that his land acquired is more than 95% and therefore he is entitled for compensation or an alternative site. In spite of the same, the respondents neither paid any compensation nor allotted any alternate site to the petitioner. The petitioner once again made representation dated 27.04.2011 and also got issued a legal notice dated 16.05.2011 for providing compensation or an alternative site. But the respondents without paying

compensation or providing an alternate site are proceeding with the acquisition of the petitioner's property. Aggrieved by the same, the present writ petition is filed.

Heard the learned counsel for the petitioner and Sri T.Balaswamy, learned Standing counsel for respondent No.3 who produced para wise remarks.

Smt K.Manideepika, learned Standing counsel for 2nd respondent submits that since the petitioner has not given his consent for acquisition of his land, payment of compensation does not arise.

It is to be seen that the subject property is in the possession of the petitioner, therefore, as long as the property is not acquired, the question of paying compensation does not arise. It is also stated that 95% of the property is under acquisition as per the earlier notification, if that is so, the respondents are bound to consider the representation of the petitioner, since the petitioner cannot utilise the balance 5% or 10% of the land. As the notification is issued in the year 2002, under Land Acquisition Act, 1894, by virtue of Section 24 of the Act, the same lapses. If still the respondents are in requirement of the property of the petitioner for road widening purpose, they have to follow due process of law before evicting the petitioner, as they have admitted in their counter affidavit.

With the above direction, the writ petition is disposed of. No costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER

REDDY,J

Date: 07.10.2015

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