

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.33716 OF 2014

ORDER:

Heard learned counsel for the petitioner and the learned Advocate General.

The petitioner prays for Mandamus declaring the notification dated 01.05.2013 issued by the 3rd respondent under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') and the draft declaration under Section 6 of the Act, insofar as the petitioner's property bearing Municipal No.9-1-86 admeasuring 1800 sq. yards, residential apartments (flat) on premises bearing Municipal Nos.9-1-83, 84/1 and shop rooms bearing Nos.1 and 2 on premises bearing No.9-1-86/1 admeasuring 2100 sq. feet on S.P. Road, as arbitrary, illegal and contrary to the provisions of the Act, and to further declare the action of respondents in trying to take possession of land more than the extent mentioned in draft declaration, as illegal and unconstitutional.

This Court, through order dated 11.11.2014, restrained the respondents from interfering with the possession and enjoyment of petitioner herein.

The crux of the issue in the writ petition is appreciated by referring to the following tabular statement:

Notification issued u/s 4(1) of Act 1 of 1894 dated 01.05.2013

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Sl.No.	Premises number	Name of the owner	Extents in sq. mtrs	Sq.yards
1.	9-1-86	C.Nanda Kumar	385.14	460.62
2.	9-1-83, 84/1	Y.Pratap C.Nanda Kumar	204.02	244.00
3.	9-1-83, 84/1	C.Nanda Kumar	44.85	53.64
4.	9-1-86	C.Nanda Kumar	17.06	20.40
		Total	651.07	778.66

Notification issued u/s 6 of Act 1 of 1894 dated 31.10.2013

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Sl.No.	Premises number	Name of the owner	Extents in sq. mtrs	Sq.yards
1.	9-1-86	C.Nanda Kumar	201.74	241.28
2.	9-1-83, 84/1	Y.Pratap C.Nanda Kumar	110.00	131.56
3.	9-1-83, 84/1	C.Nanda Kumar	14.40	17.22
4.	9-1-86	C.Nanda Kumar	17.06	20.40
		Total	343.2	410.46

The petitioner complains that the respondents, having frozen the alignment of Metro Rail Project, have reduced the notified extent from 778.66 sq. yards to 410.46 sq. yards and to the utter surprise of petitioner, through letter dated 09.09.2014, it is informed that in the proposed road widening for Metro Rail Project, the respondents are intending to take possession of 1489.71 sq. metres. Hence, the writ petition.

The petitioner has placed on record the addendum issued through Extraordinary Gazette No.71 dated 03.12.2014 to contend that an extent of 1489.71 sq. mts is acquired. The primary objection is that the addendum is illegal and by reference to the addendum, further steps, either for dispossession or demolition of subject premises, in the matter cannot be taken up by respondents.

The learned Advocate General basing upon the written instructions states that through Memo dated 27.02.2015, which is placed on record, steps are being taken to withdraw the addendum issued through Hyderabad District Gazette No.71 dated 03.12.2014. From the above statement, it is to be noted that as on date the respondents are free to consider and take possession of land declared through draft declaration dated 31.10.2013 and if the respondents intend to take more extent of land, the same shall be in accordance with law. All factual and legal objections raised against change of alignment, acquisition of more land etc., are left open for consideration at appropriate stage.

With the above observation, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

S.V.BHATT, J

21st April, 2015

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