

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

W.P.No.11702 OF 2005

ORDER: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard Sri S.Nageswara Rao learned counsel for the petitioners
and Sri Lakshminarayana Reddy for the 1st respondent.

The petitioners pray for the following relief:

“...this Hon'ble Court may be pleased to issue a writ of Mandamus or any other appropriate writ declaring that Section 172 of the A.P. Municipalities Act is unconstitutional and consequently direct the respondent municipality to determine and pay compensation amount to the petitioners in respect of the part of the House properties of the petitioners bearing Premises No.11-1-29,11-1-17,11-1-27,11-1-31,11-1-29(1),12-1-105, 11-1-24,11-1-23,12-1-116,11-1-20,11-1-21,11-1-42, 11-1-2, which is consumed for the purpose of road widening of the main road, Ankapalli town, Visakhapatnam District, under the provisions of the Land Acquisition Act, 1884 with all other statutory benefits and further direct the 1st respondent not to demolish any part of the house property of the petitioners before payment of the compensation amount as per section 17(3) A of the Land Acquisition Act,1884 and grant such other relief as it deems fit in the circumstances of the case”.

The 1st respondent filed counter affidavit explaining the totality of circumstances under which road widening is undertaken by the 1st respondent Corporation and a few subsequent developments which have taken place during the pendency of the writ petition. A few of the petitioners have not approached the 1st respondent Corporation for extra F.S.I, still it is submitted by the learned counsel for the 1st respondent that the 1st respondent Corporation would be inclined to examine the claims

independently and pass appropriate orders on the application of petitioners. We are of the view that by excerpting the following stand of 1st respondent from the counter affidavit, the writ petition can be disposed of.

“It is submitted that the Municipality is paying structural compensation as per the estimation arrived by the R&B Department. The Municipality also giving extra F.S.I as per G.O.Ms.No.15 MA dated 15.01.1998. Further it is also proposed to provide an alternative site of 2 cents each to those who lost their total property in road widening and financial assistance under Rajeev Yuvasakthi for the needy people and also alternative commercial shop accommodation under priority to the deserved people under Rehabilitation package. The owners already removed all the 395 buildings affected under road widening voluntarily except 6 properties covered by stay granted by this Hon’ble High Court.

It may also be appraised that all these buildings falls under road widening covered by this writ petition were also removed except 3 buildings belongs to the petitioners 1, 2 and 10.

xxxxxxxxxx

It is submitted that the petitioners have filed another W.P.No.11737 of 2005, which was dismissed by this Hon’ble Court on 26.05.2005. The prayer in both writ petitions is one and the same. The Hon’ble High Court while dismissing the W.P.No.11737 of 2005 observed that the notices issued by the Municipality under Section 172 of A.P. Municipalities Act 1965, are in accordance with the guidelines issued by this Hon’ble Court and the petitioners cannot object the action of the respondents for widening of the road. The Hon’ble High Court further held that if there is any dispute as payment of compensation the petitioners can agitate for payment of market value of the structures as well as the land.”

At the time of hearing, learned counsel for the 1st respondent has brought to our notice that petitioners 4, 5, 9 and 12 have neither received the compensation nor extra F.S.I in terms of G.O.Ms.No.15 M.A Department dated 15.01.1998. Learned counsel for the petitioners

is unable to confirm the details stated by the learned Standing Counsel.

Having regard to the above circumstances, we are satisfied that the writ petition can be disposed of by this order:

- (i) the petitioners, who are yet to avail any benefit in terms of compensation or extra F.S.I, are given liberty to make representation along with a copy of this order to the 1st respondent within six weeks from the date of receipt of order and the 1st respondent is directed to pass appropriate orders on the representation of petitioners within a period of four weeks from the date of receipt of representation; and
- (ii) the petitioners are given liberty to communicate this order to 1st respondent for prompt and timely disposal of the representation which is permitted to be made by this order.

The writ petition is, accordingly, disposed of. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE,
ACJ

S.V.BHATT,

J
Date: 17.12.2015
Lrkm