

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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WRIT PETITION No.23868 OF 2006
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ORDER:

This Writ Petition came to be filed seeking issuance of a writ of *mandamus* declaring the action of the respondents in denying compensation, under Land Acquisition Act, towards the cost of the land situated at Municipal Door No.12-11-98, Srikakulam Municipality and two sites in Sy.No.200 admeasuring 40 x 120 and 49 x 200 situated in Peddabartham Street, popularly known as Kalinga Road, Srikakulam Municipal limits and direct the respondents to pay the cost of the land in accordance with law.

2. The averments in the affidavit filed in support of the writ petition would show as under:

The petitioner claims to be the owner of a pucca house bearing Door No.12-11-98 constructed by his late father. He also claims to have owned two bits of sites in Town Survey No.200 referred to above. Recently, he came to know that the respondents are taking steps for widening the existing 28' street road to 60' road without following due process of law. On coming to know that compensation would be paid only to the extent of removing part of the constructions, he met the respondents personally and explained that his lands were affected in the widening process and requested for payment of compensation towards the site cost as per Land Acquisition procedure. Their inaction led to filing of the present writ petition.

3. A counter affidavit came to be filed by respondent No.2 denying the averments made in the writ petition. He further stated that the existing Kalingapatnam - Srikakulam – Parvathipuram

road calling as Kalinga Road is an important State Highway Road, which connects coastal areas, villages and Municipalities of Srikakulam. As per the counter, an estimation was prepared to widen the road to 70'-0", but due to local constraints, the Municipal Committee has resolved to widen the road to 60'-0" only after conducting co-ordination meeting by the Commissioner, Srikakulam Municipality in Municipal Office, Srikakulam on 21.01.2006. The work of 'widening of existing (R&B) Road from Kms 26/0 to 27/290 in Srikakulam Municipal Limits was sanctioned under HUDCO Scheme for Rs.300.00 Lakhs. Technical sanction for the work was accorded duly making an LA Provision of Rs.1.11 Crores towards land acquisition. It has been specifically stated in the counter that the petitioner is not entitled for compensation towards vacant site since the land is a village site, poramboke and compensation to buildings only to be paid to the looser of the structures. It is further averred that the compensation amount has already been deposited with the Srikakulam Municipality.

4. Respondent No.3 also filed counter affidavit denying all the averments made in the writ petition and further stated that in the year, 2006 he along with the District Collector, Srikakulam has taken steps for implementation of Master Plan road sanctioned to the Srikakulam Municipality vide G.O.Ms.No.481, MA, dated 13.09.2006 and as part of implementation of Master Plan Road, the existing Kalinga road proposed to be widen to 60'0". The District Collector after examining the issue in detail, decided that the provisions under Land Acquisition Act are not applicable to the instant case and the question of acquisition of land does not arise since the land is village site and Government Poramboke and the compensation to the buildings only to be paid to the losers of the

structures. It is averred that the petitioner never approached the respondent authorities duly claiming title over the properties. It is further stated that Srikakulam Municipality conducted public meeting on 21.01.2006 with Kalinga Road people and in the said meeting several inmates of the locality accepted to receive compensation for structures and to leave the site voluntarily. It is said that Srikakulam Municipality paid structural compensation amount for the structures, which fell in the road widening portion.

It is said that if the petitioner approaches the office of the respondents with valid title over the property, the Municipality will pay structural compensation.

5. No representation on behalf of the petitioner and no reply came to be filed denying the averments in the counters.

6. From a reading of the counter, it is clear that the petitioner is not the owner of the land and he is an encroacher to the said site. In fact, no documents are filed by the petitioner along with the petition to prove that he has title or right over the said land. Except the affidavit, which has been filed in support of the writ petition, not even single scrap of paper is placed to prove his title over the said land. Having regard to the averments made in the counter, I am of the view that the respondents are justified in awarding the compensation only to the structures raised therein.

7. Accordingly, the Writ Petition is dismissed. Consequently, Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. No order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:01.12.2015

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