

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.4591 OF 2011

ORDER:

The writ petition is filed complaining the inaction on the part of the 1st respondent-authorities in determining the payment of compensation to the petitioners under Section 3(G) of the National Highways Act, 1956 (for short, 'the Act') for the land over an extent of Ac.1.03 gts in Sy.No.172, Ghatkesar Village and Mandal, Ranga Reddy District, acquired pursuant to the notification issued under Section 3-A of the Act.

The grievance of the petitioners is that an extent of Ac.1.03 gts was acquired by the respondents by issuing a notification under Section 3-A of the Act for the purpose of upgrading the existing N.H.202 for 4/6 laying road from Hyderabad to Yadagirigutta. However, compensation amount has been paid only for the extent of Ac.0.20 gts out of the total extent of the land acquired admeasuring Ac.1.03 gts. It is stated that the compensation for the remaining land over an extent of Ac.0.23 gts was not paid to the petitioners though a higher amount has been paid for the land situated in Sy.No.171 which is adjacent to the land of the petitioners.

A counter-affidavit has been filed by the 1st respondent on his behalf and also on behalf of the National Highway authorities. In the counter-affidavit, it has been stated that though an extent of Ac.1.03 gts was notified for acquisition, final award was passed for an extent of Ac.0.20 gts acquired in Sy.No.172. The notification issued earlier is only a draft notification and thereafter the final award has been passed determining the compensation only for an extent of Ac.0.20 gts so far as the land in Sy.No.172 is concerned, as only that extent of land was acquired. It is also submitted that there is no provision under the Act to

issue a notification including the land which is not acquired. It is also submitted that the compensation for the land which was acquired i.e. Ac.0.20 gts has already been paid and prays for dismissal of the writ petition.

Heard Sri Resu Mahender Reddy, learned counsel for the petitioners and Sri S.S. Varma, learned standing counsel for the 1st respondent and the learned Assistant Government Pleader for Land Acquisition.

A perusal of Section 3D of the Act makes it clear that it is the final notification which is published under Section 3D(3) of the Act and one would be eligible for receipt of compensation under Section 3G of the Act. It is always permissible under the Act to issue a notification under Section 3A of the Act which is akin to the notification under Section 4(1) of the Land Acquisition Act, 1894 (now repealed). Section 3D of the Act is the declaration of acquisition which is equivalent to the notification issued under Section 6 of the Land Acquisition Act.

It is an admitted fact that an award has been made under Section 3G of the Act. What is covered in the award is land to an extent of Ac.0.20 gts. There is no material placed by the petitioner as a matter of fact other than the Ac.0.20 gts land any other land has been notified under Section 3A of the Act nor any other proceedings have been initiated. For that reason no compensation as such can be directed to be paid for the land which has not been acquired. In the event the petitioners are not satisfied with the compensation paid under Section 3G of the Act, they are required to avail alternative remedies available by making an application for arbitration under Section 3G(5) of the Act. The course that is required to be adopted by the petitioners is set out in the Act and it is not possible for this Court to

make any order with respect to the prayer of the petitioners by directing the respondents to grant the enhanced compensation. However, it is for the petitioners to take necessary steps by invoking necessary provisions of law, if they desire to have enhancement of compensation.

With the above observations, the writ petition is closed. No order as to costs. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

CHALLA KODANDA RAM,J

Date:08.06.2015.

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