

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.24805 of 2016

ORDER :

Heard the counsel for petitioner; and Sri N. Ashok Kumar, counsel for respondent nos.1 and 2.

2. The petitioner has filed the Writ Petition questioning the action of respondent nos.1 and 2 in demolishing property claimed by petitioner for the purpose of road-widening from National Mineral Development Corporation to Sarojini Devi Hospital as illegal, arbitrary and in violation of Article 300-A of the Constitution of India and Sections 146 and 406 of the Hyderabad Municipal Corporation Act, 1955; to direct respondent nos.1 and 2 to award compensation to petitioner as per the provisions as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [**for short, 'the Act'**]; and also damages for loss of business.

3. It is not in dispute that apprehending demolition of the structures claimed by petitioner, the petitioner had earlier filed WP.No.7173 of 2014 before this Court.

4. The learned Standing Counsel for respondents made a representation before the Court at the time of

hearing of the said Writ Petition that the property claimed by petitioner was not notified for acquisition and that respondents would take action to dispossess the petitioner or to demolish the structures claimed by petitioner only in accordance with the provisions of the Land Acquisition Act, 1894 or Section 146 of the Greater Hyderabad Municipal Corporation Act, 1955.

5. Section 146 of the Greater Hyderabad Municipal Corporation Act, 1955 enables the 2nd respondent to negotiate with the owner of the property for acquiring title to it.

6. According to the learned Standing Counsel for 2nd respondent, such negotiations were conducted with petitioner, but at the time when the respondents wanted to pay compensation to petitioner, the third-party raised a claim. The learned Standing Counsel also submits that notice was given both to the said third-party and petitioner to produce title documents in relation to the subject property, and the petitioner did not produce any documents. The learned Standing Counsel also submits that a suit O.S.No.340 of 2014 was filed before the IX Additional Chief Judge, City Civil Court, Hyderabad, and that the matter is pending before the Civil Court.

7. The counsel for petitioner states that the said suit had been filed by petitioner against third-party for recovery

of a portion of a property, and that it is pending before the said Court.

8. It is not in dispute that respondents have demolished the subject property, and have not paid any compensation either to petitioner or third-party.

9. The learned Standing Counsel appearing for respondent nos.1 and 2 states that respondents would examine the title deeds of both petitioner and third-party, and then decide to pay compensation whoever is found to be the owner.

10. No such power is conferred on respondent nos.1 and 2 to decide title to the subject property under any provision of the Act.

11. Therefore, this course of action suggested by the learned Standing Counsel for respondent nos.1 and 2 cannot be accepted.

12. Since there appears to be a title dispute with regard to the subject property which cannot be adjudicated by respondent nos.1 and 2 or by this Court, the respondent nos.1 and 2 have to be directed forthwith to initiate proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and deposit the compensation payable for the subject property in the Office of the Land Acquisition, Rehabilitation and

Resettlement Authority constituted under Section 51 of the Act as mandated by Section 77 and direct both petitioner and third-party, who are also claiming the compensation, to thrash out the dispute regarding the title before the said Authority.

13. Accordingly, the respondents shall forthwith send requisition to the State of Telangana, represented by its Principal Secretary, Municipal Administration Department for acquisition under the above Act of the property in question and thereupon the said Department shall issue a notification under Section 11 of the Act and after the Collector passes award under Section 27 – 30 of the Act, the matter shall be referred by the Collector to the above Authority under Section 77 of the Act for adjudication of title to the said property.

14. Accordingly, the Writ Petition is disposed of. No order as to costs.

15. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 12-08-2016

Ndr/*