

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.25507 of 2008

AND

WRIT PETITION No.13238 of 2009

COMMON ORDER:

These two writ petitions are disposed of by this common order, as they relate to acquisition of land for International Airport.

W.P.No.25507 of 2008 is filed challenging the acquisition of land in an extent of Ac.06.02 gts. in Survey No.49 and Ac.03.15 gts in Survey No.50 for laying of the road through un-acquired portion of the petitioners i.e. in Survey Nos.49 and 50 and depriving the petitioners access to the remaining land on either side of the International Airport approach road from the main road.

W.P.No.13238 of 2009 is filed by the company challenging the notification issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') dated 06.02.2009 and the orders passed on 06.06.2009 rejecting the objection filed by the petitioner without conducting proper enquiry.

In so far as W.P.No.13238 of 2009 is concerned, it is stated that a notification under Section 4(1) of the Act was issued for acquisition of Ac.0.08 ½ gts of land in Survey No.47 of Thondupally Village by showing the name of the owner as Rajendra Prasad and his wife Gunavathi Bai. They submitted their objections to the 1st respondent stating that out of the said extent of Ac.0.08 ½ gts land, Ac.0.07 ½ gts was sold to the writ petitioners. When the 1st respondent issued notice on 20.03.2009 directing the petitioners to participate in the enquiry under Section 5-A of the Act, he submitted objections on 06.04.2009. Without

conducting enquiry, the 1st respondent rejected the objections of the petitioners.

Counter affidavit is filed stating that draft notification publication under Section 4(1) of the Act to an extent of Ac.0.08 ½ gts was published in the local news papers after issuing notice under Section 5-A of the Act on 09.02.2009 to all the interested persons. They filed their objections and requested for dropping the proceedings. The objections were rejected. After rejecting the objections, a draft declaration was published in A.P. Gazettee on 09.06.2009 and on local news papers on 10.06.2009. After proper enquiry, an award was passed on 17.09.2009. The matter was referred to the District and Sessions Judge, Ranga Reddy District under Section 30 of the Act while depositing the compensation under Cheque bearing No.663640, dated 17.09.2009 for an amount of Rs.16,32,855/-. After passing of award and issuing notice under Section 12(2) of the Act, possession was taken and handed over to the requisition Department on 07.10.2009 under cover of panchanama, the present writ petition was filed. The said land was acquired for the purpose of laying approach road to provide access to the left over lands of some land owners, whose lands were acquired for International Airport. Acquisition has become necessary in view of W.P.No.25507 of 2008 to provide access to the land owner of the said writ petition.

In view of the publication of declaration and passing of award on 17.09.2009 nothing survives for consideration. Hence, the writ petition is accordingly dismissed as infructuous.

In so far as W.P.No.25507 of 2008 is concerned, it is the case of the petitioners that a notification under Section 4(1) of the

Act was issued on 02.08.2002 to acquire the extent of Ac.30.39 gts in Survey Nos.42, 43, 48, 49, 50, 51 and 52 of Tondapally Village, Shamshabad Mandal, Ranga Reddy District for formation of the approach road for Hyderabad International Airport at Shamshabad and draft declaration was issued on the same day. Thereafter, award enquiry was conducted and award was passed. The 1st respondent-Land Acquisition Officer issued a notice on 18.07.2004 intimating with regard to the passing of the award and the petitioners sought reference of the matter to the Civil Court. It is the further case of the petitioners that they own an extent of Ac.17.05 gts in Survey No.49 and 50 and out of the said extent an extent of Ac.9.17 gts were acquired from the middle of the said survey numbers leaving un-acquired portion of land admeasuring Ac.7.28 gts on either side of the acquired land. This is contrary to the original notification dated 02.08.2002.

Land Acquisition Officer filed a counter affidavit stating that the Executive Engineer R&B sent a requisition for acquisition of Ac.30.39 gts in Survey Nos.42, 43, 48, 49, 50, 51 and 52 of Tondupally Village, Shamshabad Mandal for formation of approach road to International Airport. Accordingly, land acquisition proceedings were initiated. The draft notification was published for the extent of Ac.30.38 gts and draft declaration was published on 13.08.2002. The award enquiry was conducted on 21.07.2003 and award was passed on 02.07.2004. Possession of the land was taken and handedover to the requisition department on 03.11.2005. The petitioners received compensation amount under protest and the matter was referred to the Court of the Senior Civil Judge, Ranga Reddy. At that stage, the present writ petition is

filed. Land Acquisition Officer is not liable for payment of compensation for the un-acquired land. It is denied that the road was laid contrary to the original notification dated 02.08.2002.

A separate counter affidavit is filed by the Executive Engineer, R& B stating that the original alignment plan was given to the petitioners when the petitioners sought for the same and as per the said plan, the entire road was laid by acquiring the property in accordance with 4(1) notification. The petitioners' property is situate to the north of the airport road in Survey No.49, but in so far as the land situated on the southern side of the road, there is no connectivity to road and approach to the petitioners property. In view of the lack of approach road to the northern side of the main road, they initiated steps for laying of new approach road to the petitioners' property by acquiring petitioners land under the Land Acquisition Act. It appears that the property acquired is a subject matter of W.P.No.13238 of 2009, which was dismissed as aforesaid.

In view of the provision of approach to the petitioners' land, which are situated to the north of the airport road, the grievance of the petitioners does not survive.

In view of the facts and circumstances of the case, both the writ petitions are dismissed as infructuous. There shall be no order as to costs.

The miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 16.11.2016

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THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO



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AND
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DATED: 16.11.2016

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