

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.22048 of 2004

ORDER:

Heard the learned Counsel for the petitioner and the learned Government Pleader for the respondents.

The petitioner states that an extent of Ac.0.62 cents of land was purchased by one P.Pitchaiah from one P.Rahim under a registered sale deed dated 31.05.1975 and the said Pitchaiah gave the property under a deed of gift to one P.Shivasankar on 26.02.1990. The petitioner purchased the property from the said Shivashankar on 08.09.1998. When the petitioner is in possession of the property, the seventh respondent entered into the land for laying approach road to the District Central Library without any authority. The seventh respondent is a contractor who was allotted the work of laying the road. The land of the petitioner is in Survey No.301/3B/2G. A notification under Section 4(1) of the Land Acquisition Act seeking to acquire the land of an extent of 1½ cents of land was issued and a declaration was issued in respect of the land in Survey No.301/3B/2G1. The name of the pattadar and occupier was mentioned as one A.Subbarayudu. It appears that an award enquiry was conducted and an award was passed in the name of that Subbarayudu. Challenging the interference with the land of the petitioner, the present Writ Petition is filed.

This Court, by order dated 30.11.2004 ordered that *status quo* shall be maintained by the parties. In spite of the said order, it appears that a kacha road was laid.

A counter affidavit is filed by the Revenue Divisional Officer, Kadapa, stating that the Secretary, Zilla Grandhalaya Samstha, Kadapa, sent a requisition for acquisition of the land in Survey No.301/3B/2G admeasuring Ac.0.01½ cents of Nagarajupalli Village of Kadapa Mandal for formation of approach road to the District Central Library. One Sri Subbarayudu is the pattadar and occupier of the said property. When a notice was issued to him, he sent a letter on 14.09.2003 stating that the land does not belong to him. However, award was passed on 30.09.2003 in the name of the said Subbarayudu. Since the said Subbarayudu did not claim the amount, it was kept in the revenue deposits. The acquired land was handed over to the requisitioning department on 12.01.2004. Subsequently, the work of laying CC road was entrusted to the Executive Engineer (SW), Kadapa, by the Collector, Kadapa, on 17.02.2004 and the work was awarded to the lowest bidder – the seventh respondent, on 28.10.2004, who completed the work. The acquired land is part and parcel of the land mentioned by the petitioner in Survey No.301/3B/2G only. It was submitted that a wrong place in Survey No.301/3B/2G1 was demarcated for laying the road. Since the extent requested was less, the requisitioned extent was subdivided as Survey No.301/3B/2G1. Though the said land is owned by the

petitioner, the remedy of the petitioner is only to file a claim and prove his title and claim compensation amount. It is further stated that the land acquired and the land which was used for laying the road is one and the same. The petitioner never objected or approached the Land Acquisition Officer at the time of survey of land or at any time after publication of notification under Section 4(1), declaration under Section 6 or notices under Section 9(1) and 10 of the Land Acquisition Act. He represented to the Land Acquisition Officer only on 26.11.2004.

In view of the above averments, this Court directed the learned Government Pleader to get the factual report from the Revenue Divisional Officer. The Tahsildar, Kadapa, submitted a letter on 09.02.2015 to the learned Government Pleader for Land Acquisition wherein he stated that the cement road is existing in an extent of Ac.0.01½ cents which is covered in the petitioner's land and the remaining extent of Ac.0.03 cents is vacant. The Mandal Surveyor has prepared a rough sketch and the same was enclosed. The award was passed for an amount of Rs.1,06,253/- and since the person in whose name the award was passed did not claim the amount, it was kept in the revenue deposits. As per the village accounts i.e., as per the RSR of Nagarajupalli Village of Kadapa Mandal, the land in Survey No.301 of an extent of Acs.4.00 is classified as "inam dry" and stood in the name of Akvarullasha. An extent of Ac.0.06 cents in Survey No.301/2B/2G was recorded in the name of Sri Amaraswami Subba Rayudu in column No.11 and

the petitioner is having Ac.0.04½ cents in Survey No.301/3B/2G as per the FMB.

A perusal of the notification issued under Section 4(1) and declaration under Section 6 of the Land Acquisition Act shows that an extent of Ac.0.01½ cents in Survey No.301/3B/2G1 standing in the name of A.Subbarayudu was sought to be acquired and the award was passed in his name on 30.09.2003. The land was entrusted to the requisitioning department on 12.01.2004 and the work was completed even before the petitioner approached this Court. The report of the Tahsildar shows that part of the land of the petitioner was acquired, whereas the entire proceedings from notification under Section 4(1) of the Land Acquisition Act to the award were issued in the name of one A.Subbarayudu in respect of the land in Survey No.301/3B/2G1. The entire acquisition proceedings proceeded on a mistaken impression or on correct impression, but the land belonging to the petitioner was wrongly utilised for the purpose of laying the road. As on today the land of the petitioner is affected and the land in whose name the proceedings were initiated was not affected and he did not take any compensation also.

In view of the factual situation, the first respondent is directed to issue fresh notification and declaration by dispensing with enquiry and arrange for payment of compensation under the Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which came into force with effect from 01.01.2014 and the entire proceedings shall be completed, within a period of six months from the date of receipt of a copy of this order, failing which it is open to the petitioner to claim the land utilised for the purpose of laying the road.

The Writ Petition is, accordingly, allowed to the extent indicated above. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

16.11.2016
vs



(A.RAMALINGESWARA RAO, J)