

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

W.V.M.P.Nos.856 and 4397 of 2012

in

W.P.No.3524 of 2009

and

WRIT PETITION No.3524 of 2009

ORDER:

The petitioners, 10 in number, have filed this Writ Petition stating that they are owners of small plots of land in Sy.Nos.5, 6, 32/2, 236 and 239 of Balapur Village, Saroornagar Mandal, Ranga Reddy District having purchased the same from 1996 to 2008 under registered documents and that respondent Nos.1 and 2 came to the sites purchased by petitioners, and asked the petitioners to vacate their houses alleging that the lands of petitioners were acquired for provision of security strip on Southern and Western boundaries of D.R.D.L., a defence organization.

2. Petitioners contend that they have not received any notice of acquisition proceedings from the respondents and had no opportunity to participate in any enquiry under Section 5-A or Section 10 of the Land Acquisition Act, 1894 (for short "the Act"). They therefore seek an order that they shall not be dispossessed from their respective plots.

3. On 24-02-2009, this Court admitted the Writ Petition

and granted interim direction to respondents not to dispossess the petitioners from their respective plots until further orders.

4. Thereafter a memo was filed on behalf of petitioner Nos.3 to 6 and 8 to 10 dt.08-07-2013 seeking permission of the Court to withdraw the Writ Petition as regards them. The said memo was taken on record and on 09-07-2013 Writ Petition was dismissed as withdrawn as regards the said petitioners.

5. Therefore the Writ Petition presently survives only as regards petitioner Nos.1, 2 and 7.

6. Counter affidavit has been filed by respondent Nos.1 and 2 stating that the lands of petitioner Nos.1 and 7 are not under acquisition.

7. No reply affidavit has been filed by petitioner Nos.1 and 7 disputing this fact. Since burden is on the petitioner Nos.1 and 7 to establish that the lands purchased by them have been acquired by respondents, granting liberty to petitioner Nos.1 and 7 to avail other remedy available at law, the Writ Petition is dismissed as far as they are concerned.

8. The 3rd respondent-beneficiary has been subsequently impleaded in the Writ Petition by order dt.27-02-2012 in W.P.M.P.No.5600 of 2012.

9. The 3rd respondent-beneficiary filed W.V.M.P.No.856 of 2012 and respondent Nos.1 and 2 filed W.V.M.P.No.4397 of 2012 to vacate the interim order.

10. Respondent Nos.1 and 2 as well as 3rd respondent have asserted that the lands admeasuring Ac.1.28 guntas in Sy.Nos.5 and 6, Ac.0.34 guntas in Sy.Nos.236 and 239 of Balapur village and Ac.0.04 guntas in Sy.No.32 of Kothapet were acquired by following the procedure under the Act and after issuing notification under Section 4(1) and Section 6 of the Act. They also stated that awards had been passed on 10-04-2008 and 15-05-2008 respectively. The 3rd respondent has further stated that on 15-12-2008 respondent Nos.1 and 2, after dispossessing the persons whose lands were acquired, handed over possession of the land to 3rd respondent along with 139 structures under a panchanama. It is contended that once such possession is taken on 15-12-2008, 2nd petitioner is not entitled to contend that he is still in possession particularly when this Writ Petition itself is filed after the alleged dispossession by respondent Nos.1 and 2.

11. In the counter-affidavit filed by respondent Nos.1 and 2, it is stated that 2nd petitioner filed a claim petition with regard to Plot No.25 in Sy.Nos.5 and 6 of Balapur village during award proceedings, that an award has been

passed in his name and compensation amount is kept ready for payment. It is further stated that 2nd petitioner did not produce the original documents and take the amount.

12. Since it is not disputed that plots of the 2nd petitioner form part of acquisition proceedings, and since an award has already been passed in respect of the said land on 10-04-2008 and 15-05-2008, but payment of compensation has not been tendered to 2nd petitioner, in view of sub-Section (2) of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the respondent Nos.1 to 3 are directed to initiate proceedings under the said Act, which has repealed the Land Acquisition Act, 1894, for acquiring plot No.25 in Sy.Nos.5 and 6 of Balapur village and pay compensation to 2nd petitioner or any other person found to be owner of the land, within six (06) months from the date of receipt of a copy of this order.

13. As regards the 1st petitioner, liberty is given to approach the appropriate forum in case the alleged possession of 1st petitioner is threatened by any of the respondents.

14. W.V.M.P.Nos.856 of 2012 and 4397 of 2012 are allowed.

15. Consequently, the Writ Petition is disposed of in terms of the above order. No costs.

16. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 29-06-2016

Vsv