

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.10773 of 2008

ORDER:

The petitioner claims that he is the owner of property admeasuring Ac.0.50 cents in Sy.Nos.375/3A3 and 374/1B of Korangi Village, Tallarevu Mandal, East Godavari District. He entered into lease agreement with Hindustan Petroleum Corporation Limited, Visakhapatnam Region on 22.12.2003 for a period of 30 years and set up retail outlet. While so, respondents put markings on the building without initiating land acquisition proceedings. Sri Ch.Raja Rao, who was running the outlet, filed W.P.No.24936 of 2007 and the same was disposed of on 23.11.2007 with a direction to follow due process contemplated under the provisions of the Land Acquisition Act, 1894 (for short 'the Act'). Thereafter, notification, under Section 4(1) of the Act, was published in District Gazette Part-I Extraordinary No.58/2007 dated 11.12.2007 and notice, under Section 5A of the Act, was issued on 17.12.2007. The petitioner submitted his objections. However, when respondent No.1 passed an order on 02.03.2008 rejecting the objections, the present Writ Petition was filed.

This Court, by order dated 14.05.2008, directed respondent No.2 not to dispossess the petitioner from the

property admeasuring Ac.0.12 cents in Sy.No.375/3A3 and 374/1B of Korangi Village, Tallarevu Mandal, East Godavari District. Seeking vacation of the said order, WVMP.No.1867 of 2008 is filed along with the counter affidavit.

As per the averments in the counter affidavit, the Executive Engineer, R & B, Kakinada submitted requisition dated 03.10.2007 for acquiring the land of an extent of Ac.0.34 cents, in Sy.No.374/1B2 of Korangi Village, Tallarevu Mandal, for the purpose of widening/strengthening of road from Tallarevu to Gadimoga MDR No.1328. Accordingly, the land was surveyed and notification was issued. It was published in two local newspapers on 12.12.2007 and 13.12.2007 apart from publishing on 11.12.2007. The petitioner was issued notice under Section 5A of the Act and he attended before respondent No.2 on 21.01.2008. The petitioner filed W.P.No.2059 of 2008 and the said Writ Petition was dismissed on 05.02.2008 as misconceived. The matter was enquired by the Tahsildar and a report was submitted to the District Collector on 07.02.2008. On considering the same, the District Collector passed an order on 02.03.2008 rejecting the objection filed by the petitioner and the same was communicated to the petitioner on 08.03.2008. The draft declaration was approved and it was published in the

gazette on 24.03.2008. Thereafter, notices, under Section 9(1) and 10 of the Act, were issued on 27.03.2008 and it was served on the petitioner on 01.04.2008 and award enquiry was conducted on 19.04.2008 and the petitioner attended the same. At that stage, he filed the present Writ Petition.

It is further stated that the acquisition does not affect the petrol pump and oil tanks of the petitioner as they are at a distance of four feet, and only a small bit of Ac.0.12 cents of the petitioner is needed for widening/strengthening of road and the property of others was also acquired.

Learned counsel for the petitioner submitted that the objections raised by the petitioner were not properly considered in accordance with law and he relied on an order of this Court in **Grandhi Narayana Rao v. Special Collector (Land Acquisition), Indira Sagar Project, Rajahmundry, East Godavari District**¹. He further submitted that acquisition is for a private party, Reliance Company, and no public interest is involved.

Learned Government Pleader for Land Acquisition produced the record relating to this case which showed that an extent of Ac.17.66 cents in Polekurru Village and Ac.0.81 cents in Korangi Village were sought to be acquired for the purpose of widening/strengthening of road from Tallarevu to Gadimoga MDR No.1328 and the land affected

¹ 2014(2) ALD 202

of the petitioner is only an extent of Ac.0.12 cents. The record reveals that nearly an extent of Ac.16.85 cents in Polekurru Village and Ac.0.81 cents in Korangi Village were sought to be acquired in Sy.No.374/1B2 of Korangi Village, Tallarevu Mandal, for the purpose of widening/strengthening of road. Since such a large extent of land was acquired for the purpose of widening/strengthening of road, it cannot be said that acquisition is not for public purpose. There is no material filed by the petitioner to show that acquisition is meant for a private party, Reliance Company limited.

With regard to the objections, the proceedings of the Collector dated 02.03.2008, which are challenged in the present Writ Petition, show that the objections of the petitioner were considered by the Revenue Divisional Officer, Kakinada and he submitted a report to the District Collector. Based on which, the Collector found no valid grounds in the objections and, accordingly, rejected them. While coming to the said conclusion, he perused the following objections and remarks in relation to the petitioner which are as follows:

1. Objections filed by Sri Villa Veera Nagendra Kumar S/o. Reddy Naidu, Ac.0.12 cents in Sy.No.374/1B2 in Korangi Village.

Sl.No.	Objection	Remarks
1	His name is Villa Veera Nagendra Kumar, S/o.Reddy Naidu. He owned a land in Sy.No.374/1B2 situated in the said 50 cents to H.P.C.L. (Hindustan Petroleum Corporation Limited) on 22 nd October, 2003. One Mr.Ch.Raja Rao S/o.Mahalakshmi is running a petrol bunk in that land as the H.P.C.L. given him a license to run the petrol bunk.	As per the records the land in S.No.374/1B2 belongs to Sri V.V.N.Kuamr and he leased out to HPCL. Sri Ch. Raja Rao has in turn obtained permission to run Petrol Bunk. An extent of Ac.0.12 cents only is proposed for acquisition along side the R&B road margin.
2	And for the purpose of road widening only one side of the road has made markings. When there is abundant Govt. Poramboke land available to the left side of the road opposite to our land.	The land marking is done one side in private land, which has to propose to widen in narrow side. This is a suggestion but not an objection. Further as per the alignment fixed by the R&B Department the acquisition is initiated.
3	According to your notice, 0.12 cents of my land will be acquired for road widening if it happens I sustain irreparable loss and it will effect my lively hood as I am an educated unemployed.	It is inevitable to acquire the land for public purpose. Reasonable compensation will be paid as per rules under the L.A.Act.
4	According to the markings made by the officials the structure of the petrol bunk and the petrol storage tanks and pathway which is going inside the petrol bund and the compound walls will be washed out completely and we leased out the property to H.P.C.L. according to H.P.C.L. Rules and regulations the existing structure of the petrol bunk should not be destroyed or changed.	That the acquisition will not affect the existing bunk. It is essential to acquire the land in the land including structures therein for road widening for public purpose. The objection is untenable.
5	We came to know that the road widening is not for the purpose of public. But it is for the purpose of Reliance Industries Limited, in this regard kindly consider our objections and take necessary action and do justice in this regard.	The land required by Government of A.P. through APRDC and accord permission for execution of work as per the designs and drawings approved by the R&B Dept. This project work is taking up by M/s. Reliance India Limited on B.O.T. scheme and it is for public purpose. Public Purpose has been clearly defined in Section 3(f) of the L.A.Act, 1894 as requirement of land for provision of village site, or extension or planned

		development and improvement of village sites. Public purpose was defined in Section 3(f) of the Act. (a) Public purpose will include a purpose in which the general interest of the community as opposed to the interest of an individual is directly or indirectly involved. Individual interest must give way to public interest as far as public purpose in respect of acquisition of land is concerned.
6	As per the Revenue records there is an abundant Government Poramboke land available to the left side of the road opposite to our land. But the authorities are not acquire that Govt land. If the land acquired I will face great hardship to me as I may loose my livelihood. In view of the above things I pray to do justice in this regarding.	There are irrigation channel, RWS pipe lines, electric poles etc existing in G.P. land. Reasonable compensation will be paid as per rules under L.A.Act.

Learned counsel for the petitioner mainly laid stress on the objections at Sl.Nos.4 and 5 and, when they are read along with remarks, it shows that the objections are not tenable.

Those facts were taken into consideration by respondent No.1 while rejecting the objections. Though the ratio laid down by this Court in **Grandhi Narayana Rao (1 supra)** is in relation to the consideration of objections to land acquisition under Section 5A of the Act and no quarrel with the said ratio but, it had to be applied to the facts of each case. But, the said decision is not applicable to the facts of the present case.

During the pendency of the Writ Petition, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act 30 of 2013') came into force with effect from 01.01.2014. As per Section 24(1)(a) of Act 30 of 2013, if no award is passed under Section 11 of the Act, all provisions of Act 30 of 2013, relating to determination of compensation, shall apply.

Since no award is passed at the time of disposal of the present Writ Petition, Section 24(1)(a) of Act 30 of 2013 has to be taken into consideration while passing award.

The Writ Petition is, accordingly, disposed of. Miscellaneous petitions, if any, shall also stand disposed of. No order as to costs.

A. RAMALINGESWARA RAO,J

Date:11.11.2016
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