

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.39117 of 2012

ORDER:

This writ petition is filed seeking the following prayer:

“to issue any writ, order or directions, more in the nature of, writ of Mandamus, declaring the action of the respondents in evaluating the compensation to be paid to petitioner for acquisition of petitioner land with 2 open plot with R.C.C.Buildings to an extent of 103.44 Sq.Yards thereon on the basis of the value of agricultural land instead of paying the amount per square yard and without affording any opportunity to put forth petitioner objections with regard to the same as illegal, arbitrary and in violation of principles of natural justice and contrary to the provisions of Land Acquisition Act and consequently direct the respondents herein to provide an opportunity to petitioner to put forth petitioner objections before them before passing the award and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case or else petitioner suffer heavily.”

The case of the petitioner is that she purchased an open plot with R.C.C.Building in Sy.No.259/1A, D.No.21-6, Palakonda Road, Kothavalasa, Parvatipuram Mandal, Vizianagaram District, from one Gavara Satyam Naidu under a registered sale deed dated 03.11.2011 vide document No.3184/2011. Later, she purchased another open plot with R.C.C.Building bearing D.No.21-6/1 in the same locality from the same vendor vide document No.263/2012. The vendor of the petitioner purchased the said properties from one M.Eshwar Rao and others under two registered sale deeds bearing document No.1594/1996. Since the time of purchase, she is in possession and enjoyment of the said property. While so, the respondents' issued draft notification dated

30.06.2011 under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') for acquiring lands for the purpose of construction of Railway Over Bridge at railway Km 387/7-6 of Salur-Visakhapatnam Section at KM 112/4-6 of Kalingapatnam-Srikakulam-Parvatipuram and also invoked the urgency clause under Section 17(4) of the Act by dispensing with the enquiry under Section 5(A) of the Act. In the said notification, the name of the petitioner vendor's vendor is shown instead of petitioner's name. The proposed lands, which are going to be acquired for construction of over bridge, are in well developed residential localities with R.C.C. buildings and are also classified as residential plots and agricultural lands. It is further submitted that because of invoking urgency clause under the Act, the petitioner could not file objections. If the respondents pay the compensation treating the lands as agricultural lands instead of residential plots, the petitioner would be put to much hardship and irreparable loss. Hence, this writ petition.

Counter is filed by the 2nd respondent-Revenue Divisional Officer stating that an extent of Ac.0.31 ½ cents of wet land in Sy.Nos.133-2A2, 133-4A2, 259-1A, 259-3B1 and 259-5A in Kottavalasa Village of Parvathipuram Mandal was acquired for formation of Railway Over Bridge at Kottavalasa Village of Parvathipuram Mandal, Vizianagaram District, and the particulars of the lands acquired were also mentioned. It is further stated that the land of the petitioner comprising in Sy.No.259/1A is not part of the land in respect of which notification was issued by the respondents on 30.06.2011 and so the petitioner's land was not effected. More over, the petitioner encroached some part of R&B road and constructed R.C.C. building and the part of the

unauthorized extension upto the boundary line of R&B road has been marked for demolition. Hence, the petitioner's name or her vendor's name or vendor's vendor's name was not notified in the said notification. Hence, prayed to dismiss the writ petition.

In the counter-affidavit, the respondents categorically stated that the land of the petitioner was not acquired for formation of Over Bridge and part of the unauthorized construction made by the petitioner was marked for demolition. Disputing the same, no reply affidavit is filed by the petitioner. When once the property of the petitioner is not under acquisition, the question of payment of compensation to the petitioner does not arise. Hence, I do not see any merit in the writ petition.

Accordingly, this writ petition is dismissed. No costs.

Miscellaneous petitions, pending if any, shall stand closed.

A.RAJASHEKER REDDY, J

Date: 17-02-2016

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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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