

HON' BLE SRI JUSTICE SURESH KUMAR KAIT

Writ Petition No.30080 of 2016

ORDER:

Vide present writ petition, the petitioner seeks a direction, thereby directing the respondents not to interfere in any manner with the petitioner's possession over the land in an extent of Ac.1.90 cents in Sy.No.1/ 1 of Korrurajahundry Village, Buttaigudem Mandal, West Godavari District.

2. Notice issued to the respondents and the learned Government Pleader for Land Acquisition (AP), accepted the notice on behalf of the respondents and as per written instructions received by him, he submits that as per L.P. schedules furnished by the Irrigation Department, enjoyment survey was conducted in the lands under acquisition by deputing team of Special Surveyors under the close supervision of the Deputy Inspector (S&LR), Kovvur. The Special Deputy Tahsildars and DIOS, have verified the field on ground and recorded all features of the lands under land acquisition. The draft notification proposals under Section 4(1) and draft declaration under Section 6 of the Land Acquisition Act, 1894 (for short 'the Act') in the ordinary provisions of the Act, was submitted for an extent of Ac.62.97 cents to the Special Collector (LA), Indira Sagar Project, Rajahmundry, for favour of approval. The draft notification under Section 4(1) of the Act was approved by the Special Collector (LA), under ordinary clause. The substance of draft notification under Section 4(1) of the Act was published in the A.P. Gazette No.ISP/ 120/ 2011, dated 03.10.2011 and a copy of the notification was locally published by beat of Tom-Tom and by affixture a copy of the notification in the conspicuous (convenient) places. The contents of draft notification and draft declaration approved

for an extent of Ac.61.72 cents and Ac.62.97 cents respectively, were published in the manner prescribed under the Act as detailed under excluding the Government lands for an extent of Ac.4.22 cents classified as 'vagu poramboku' and an extent of Ac.0.55 cents classified as 'Gayalu Poramboke'. Patta land measuring Ac.62.97 cents is to be acquired in the village of Buttaigudem under Chintalapudi Lift Irrigation Scheme. The AWD land for an extent of Ac.4.77 cents reported previously in land acquisition proposals and the Special Collector (LA), ISP, Rajahmundry, has fixed primary value (P.V.) at Rs.2,40,000/- per acre, vide reference No.B2/ 174/ 2011 dated 16.08.2012. The said lands are under their possession and enjoyment. The temporary D.patta and enjoyment certificates are collected from the Assignees after resumption orders served on the beneficiaries and *ex-gratia* proposals at the rate of Rs.5,72,400/- (50%in primary value of Rs.2,40,000/- rate) for approval of the Special Collector (LA), ISP, Rajamahendravaram. He further submits that the Special Collector (LA), Polavaram Irrigation Project, Rajamahendravaram, vide his letter in L.Dis.B2/ 174/ 2015, dated 03.02.2015 has accepted the proposals submitted by the Special Deputy Collector (LA), P.I.P.R.M.C. Unit-1, Kovvur, subject to compliance of the instructions of the Government read with G.O.Ms.No.243, Revenue (LA) Department, dated 27.03.2010. The contention of the applicant that the respondents have no authority of law to resume the said land without following any procedure of law is not correct. The D.Form patta will be assigned subject to certain conditions that the Government at any time can resume if the D.Form patta lands are required for public purpose. Since the subject lands are required for excavation of main canal under Chintalapudi Lift Irrigation Scheme, the Special Deputy Collector (LA), R.M.C.I., Kovvur, has issued resumption orders vide proceedings in Roc.No.36/ 2011 (ISPRMC) dated 06.12.2014. Payment of *ex-gratia* as per

G.O.Ms.No.259 dated 21.06.2016 will not be applicable to the present case as the said G.O. is not applicable with retrospective date. Further, *ex-gratia* was already fixed as per G.O.Ms.No.243 dated 22.03.2010 and approved by the Special Collector (LA), I.I.P., Rajahmundry as per G.O.Ms.No.243 Revenue (LA) Department dated 27.03.2010 and the same will be paid to the assignees within a period of one week.

3. Learned Government Pleader further submits that in view of the factual position, there is no substance in the present writ petition and hence, the writ petition may be dismissed.

4. Learned counsel appearing on behalf of the petitioner submits that the petitioner has not received any communication whatsoever from the respondents. He further submits that if the respondents have fixed the primary value at Rs.2,40,000/- vide reference No.B2/ 174/ 2011 dated 16.08.2012, then the respondents may be directed not to dispossess the petitioner without paying the said amount. Learned counsel for the petitioner further submits that if the petitioner aggrieved by the compensation amount fixed by the respondents, he may be permitted to approach appropriate forum.

5. In view of the submissions made by the learned counsel for both parties, I hereby direct the respondents to pay the compensation amount to the petitioner and only thereafter, possession of the petitioner shall be disturbed.

6. Needless to state that, if the petitioner is not satisfied with the compensation amount, the possession shall be handed over. However, he is entitled to take legal course available under law.

7. In view of the above direction, the writ petition is disposed of.
No order as to costs. Pending miscellaneous petitions, if any, in this
petition, shall stand closed.

Date: 07.09.2016
BSS

SURESH KUMAR KAIT, J



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