

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.30693 OF 2017

ORDER

Heard learned counsel appearing for the petitioners, learned Government Pleader for Revenue appearing for respondents 3 and 4 and learned Standing Counsel appearing for respondents 1 and 2.

It is the case of the petitioners that the 1st respondent issued a notification on 15.12.2009 for widening NH-5 from 4 to 6 lines viz., Chilakaluripet to Vijayawada Section. The land in an extent of 2040 square meters in Sy.No.56-5B of Koppuravuri Village, Peddakakani Mandal, Guntur District, belonging to the petitioners was involved in the acquisition, for which, they have submitted their objections on 17.03.2010. But, without considering the same, when the respondents are trying to interfere with their possession, they filed W.P.No.21448 of 2010. The said writ petition was disposed of on 26.2.2013 giving liberty to the petitioners to file an appeal under Section 3 (g) (5) of the National Highways Act, 1956, before the 3rd respondent, who is the Arbitrator under the Act for enhancement of compensation. During pendency of the said writ petition, the 4th respondent-Revenue Divisional Officer, Guntur, conducted enquiry and passed an Award on

15.11.2010, granting compensation of Rs.58,56,484/-. The petitioners state that the said amount is grossly inadequate and hence, they filed appeal before the 3rd respondent on 10.4.2013. When the appeal was pending, the 2nd respondent demolished certain trees in the compound and other structures. Hence, the petitioners submitted a representation on 25.4.2013 before the 3rd respondent seeking a direction to the 2nd respondent not to take further steps till the disposal of the appeal or payment of compensation. When no action was taken by the 3rd respondent, the petitioners filed W.P.No.14701 of 2013 and the same was disposed of on 15.05.2013, directing the respondents not to evict the petitioners without following due process of law. In spite of the said direction, though the appeal was pending, the respondents with the assistance of the police, forcibly taken possession, damaged the godown and stocks, without paying compensation. Hence, the present writ petition is filed seeking a direction to the 3rd respondent to dispose of the appeal and to pay damages for illegal demolition of the structures.

A counter-affidavit is filed on behalf of the 2nd respondent stating that pursuant to the notification published on 15.12.2009, a declaration was published on 13.05.2010 under Section 3(D) 1 of the Act. Thereafter, an Award was passed on

15.11.2010. The National Highways Authority of India deposited the awarded amount of Rs.9,37,68,940/- with the Land Acquisition Officer on 7.2.2011. In spite of receipt of notices by the petitioners on 4.3.2011, they did not turn up to file relevant documents for payment of compensation. They evaded to take compensation intentionally and filed W.P.No.14701 of 2013, which was disposed of on 15.05.2013. The Land Acquisition Officer issued a notice on 29.11.2013 giving 10 days time to vacate the acquired site and remove the structures. The petitioners neither vacated the acquired land nor come forward to receive the compensation. However, based on the instructions of the Land Acquisition Officer, the Tahsildar, Pedakakani has taken possession of the land acquired after duly conducting panchanama and handed over the same on 12.12.2013 to the National Highways Authority of India, which, in turn, handed over the same to the representative of the Concessionaire on the same day. Road was also formed immediately in order to decrease scope of accidents. There was no illegal demolition of the structures. As many accidents took place due to formation of narrow service road with blind curve, due to non-handing over of the acquired site by the petitioners, the District Collector, Guntur,

treated the issue as an important one and directed the competent authority to take necessary action in the matter.

Be that as it may, in view of the above facts, the only issue that remains for consideration is with regard to disposal of the appeal filed by the petitioners on 10.4.2013.

Learned Standing Counsel appearing for respondents 1 and 2 submits that the appeal is still pending before the Arbitrator-3rd respondent.

Hence, the 3rd respondent is directed to dispose of the proceedings as expeditiously as possible, but not later than three months from the date of receipt of a copy of this order. It is needless to mention that the petitioners shall co-operate with the 3rd respondent for disposal of the proceedings. However, pendency of arbitration proceedings will not dis-entitle the petitioners from taking compensation amount, if already deposited, without prejudice to their rights in the arbitration proceedings.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

25th October, 2017
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