

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CONTEMPT CASE No.945 OF 2015

ORDER:

This contempt case arises out of the grievance of the petitioner alleging non-implementation of the order passed in W.P.No.18312 of 2008, dated 14.07.2014.

The writ petition was filed challenging the action of the respondents in changing the alignment of the proposed Master Plan road abutting the petitioner's house plot situated in Survey No.291/1, Lashkar Singaram Village, Hanamkonda Mandal, Warangal District without initiating proceedings under law and without paying compensation as illegal and arbitrary.

This Court, by order dated 14.07.2014, allowed the writ petition with the following directions.

"In the circumstances, the writ petition is allowed by directing the 1st respondent to examine their records and inspect various buildings, which are existing on the said 60 feet road from Karimnagar road (old Mandakini Bar) to Presidency School (Rajajinagar locality) and if there are any encroachments on the 60 feet wide road, the 1st respondent shall take appropriate action in accordance with law after giving due opportunity to the affected parties and complete action within a period of six (6) months from the date of receipt of a copy of this order. No costs. Miscellaneous petitions, pending, if any, shall stand closed."

Alleging non-implementation of the said order, this contempt case was filed and it underwent several adjournments including Appointment of an Advocate Commissioner when there was an allegation of non-compliance with the order. Ultimately, this Court, by order, dated 04.11.2016, directed the II Additional Senior Civil Judge, Warangal, to fix the extent of land that was affected due to change of

alignment and appropriate compensation to be paid for that affected land. The order passed by this Court on 04.11.2016 is as follows.

"This contempt case is filed alleging non-implementation of the order dated 14.07.2014 passed in W.P.No.18312 of 2008. There is no dispute with regard to the land of the petitioners affected by formation of the road from Karimnagar road (Old Mandakini Bar) to Presidency School (Rajajinagar locality).

While allowing W.P.No.18312 of 2008 on 14.07.2014, this Court directed the first respondent to examine the record, inspect various buildings, which are existing on the said 60 feet road and if there are any encroachments on the 60 feet wide road, take appropriate action in accordance with law after giving due opportunity to the affected parties and complete the said action within a period of six months.

When no action was taken pursuant to the said order, an Advocate Commissioner was appointed, and he filed report, which revealed that there were encroachments on the said road and removal of encroachments would create not only law and order problem but the same is also against public interest. It is noticed that the said fact into consideration, the respondents proposed to change the alignment of 60 feet road without affecting the existing buildings, which were un-authorizedly built on the road. The change of alignment resulted in taking away substantial portion of the land of the petitioner.

Though several contentions were raised disputing the old master plan of 1975 and the change of alignment, ultimately an order was passed on 15.07.2016 as the learned Advocate General appearing for the respondent Corporation accepted for payment of compensation for the land affected due to the changed alignment of the road. Even after such consensus, the dispute with regard to the land affected still remained as the amount of compensation is not paid to the petitioners.

The enquiry into these facts require examination and this Court cannot undertake such enquiry in the absence of proper cooperation from the respondents.

In the circumstances, learned II Additional Senior Civil Judge, Warangal, is directed to enquire with regard to the extent of land of the petitioners affected due to the change of alignment and appropriate compensation to be paid for such land. The petitioners shall file a claim petition enclosing all the documents along with copies of orders and material already filed before this Court in the present proceedings and the respondents are entitled to file their documents. It is open to the learned II Additional Senior Civil Judge, Warangal, to appoint an Advocate Commissioner to measure the land with the assistance of the Surveyor and also fix the amount of compensation payable to the petitioners on the basis of material placed before him. The learned II Additional Senior Civil Judge, shall submit his report on or before 31.01.2017 and both parties shall cooperate for such submission.

Post this matter in the first week of February, 2017."

Pursuant to the said order, the learned Senior Civil Judge submitted a report by understanding the directions of this Court in proper perspective and holding that the task entrusted to the Court was in two parts, i.e., Part I - enquiry with regard to the extent of land affected due to change in alignment; and Part II - with regard to fixation of compensation to be paid to the petitioners. After considering the documentary evidence, the learned Senior Civil Judge came to the conclusion that the petitioners are entitled to receive the compensation for 122 square yards only and for arriving to that conclusion he relied on Plan sent by the Kakatiya Urban Development Authority vide its letter dated 29.08.2016, which was not disputed by the petitioners. With regard to compensation, the learned Senior Civil Judge fixed @ Rs.10,000/- per square yard for the said land affected. Though objections were filed to the said report by either parties, the objections did not stand in the light of the orders

passed by this Court in the writ petition and the present contempt case.

The learned Advocate General appearing for the respondents fairly agreed for payment of the said amount for 122 square yards of land and in view of the same, the contempt case is closed by directing the respondents to pay compensation within a period of three months from the date of receipt of copy of this order.

A.RAMALINGESWARA RAO, J

21.12.2017
pln

