

WRIT PETITION No.46040 of 2016

ORDER :

This Writ Petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“..to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of respondents 1 and 2 in initiating the land acquisition proceedings in notification dated 29-05-2015 for extension of National High Way No.9 (NH-9) from Vijayawada to Machilipatnam for an extent of 245 sq.yards of house and site property in D.No.194/ B and 194/ 6 and D.No.9/ 105-1 of Kummarigudem Machilipatnam Town, Krishna District, as illegal, irregular and arbitrary, violative of provisions of the National Highways Act, 1956. the right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and rules framed thereunder and offends Articles 14, 21 and 300-A of Constitution of India and consequently direct the respondents to drop the land acquisition proceedings against the aforesaid property of the petitioner and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

Heard learned counsel for the petitioner, Sri S.S.Varma, learned Standing Counsel appearing for respondents 1 and 2 and Government Pleader for Revenue appearing for respondents 3 to 5 and perused the prayer in the writ petition with supporting affidavit including counter-affidavit and additional material filed by the petitioner.

The main contention of the petitioner from the prayer in the writ petition is that but for the structures, the land value is not paid that is to be compensated to the petitioner if at all to acquire for widening of National Highway.

It is the submission of the learned Government Pleader with reference to the counter-affidavit that the subject land is an Anadeenam land.

In fact, this Court in *Sigadepu Vijaya v. State of A.P. & others*¹, in detail, dealt with what is meant by Gramakantam and Anadeenam and as it automatically will not vest in Government.

¹ 2015(4) ALD 88

A perusal of the additional material also shows the right of the petitioner over the property since his ancestors from 1944 sale deed.

Having regard to the above and also from Section 3(G) of the National Highways Act, 1956, particularly, with reference to Section 3(G)(6), the petitioner is entitled to approach the Arbitrator-cum-Collector for awarding compensation, as the proceedings of arbitration is not a mere appeal or revision against the award of the Land Acquisition Officer, but an independent proceedings, leave about a further remedy is also available by filing application under Section 34 of the Arbitration Act, 1996 before the District Judge concerned and also as held by this Court in W.P.No.9920 of 2017 and batch on 11.07.2017.

Having regard to the above, the Writ Petition is disposed of giving liberty to the petitioner to file arbitration application under the Arbitration Act, 1996 read with Section 3(G)(6) of the National Highways Act, 1956, within one month from the date of receipt of copy of this order and the Arbitrator-cum-District Collector entertain the same by virtue of this order without reference to any limitation period and to determine the entitlement of compensation by the petitioner independently and uninfluenced by the award of the Land Acquisition Officer, with reference to the material to be placed and on own merits. If the petitioner has any further grievance, it is left open to him to agitate the same in accordance with law.

Consequently, miscellaneous petitions, if any, pending shall stand closed. No costs.

Dr. B.SIVA SANKARA RAO J,

Date:24.07.2017
pab

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.46040 of 2016

DATE: 24.07.2017



pab