

HONB'E SRI JUSTICE CHALLA KODANDARAM

WRIT PETITION No.27692 OF 2011

ORDER:

The writ petition is filed questioning the action of the respondents in taking the land of the petitioner situated at Panchayat Raj Teachers Cooperative Housing Society Colony, IV Phase, Shastri Nagar, Nizamabad, illegally for the purpose of formation of road leading from Nizamabad to Kaloor without issuing any notice nor complied with the procedure laid down under the Land Acquisition Act, 1894 (for short "the Act") for payment of compensation.

The grievance of the petitioner as set out in the writ affidavit is that the petitioner acquired the open plot No.3 with an extent of 240 sq. yards through a registered sale deed dated 08.06.2005 from the Panchayat Raj Teachers Cooperative Housing Society Limited, Nizamabad. It is further stated that in the process of laying the above said road, the 4th respondent has occupied the site of 160 sq. yards of the petitioner leaving about 80 sq. yards and laid the road. However, no compensation has been paid to the petitioner till date. Brining these aspects to the notice of the respondent authorities, the petitioner submitted representation to the District Collector, Nizamabad as well as to the other respondents.

A counter-affidavit has been filed by the 4th respondent- Executive Engineer admitting the factum of laying the road through the petitioner's land. However, it was stated in the counter-affidavit that the respondents were not aware of the fact that the land belongs to the petitioner. It is further asserted that

neither the petitioner nor any one protested while the road was being laid in the year 2000 and the petitioner had approached the Court belatedly.

As can be seen from the narration and particularly considering the averments of the 4th respondent in the counter the respondents assumed that the land is a Government land. In other words, no effort was made by the respondent authorities to ascertain as to whether the land is Government land or not. Before filing the writ petition, the petitioner approached the respondent authorities by submitting a representation dated 13.06.2011 and thereafter addressed couple of letters finally one on 28.7.2011. Even after addressing the said letters, the respondents did not cause any enquiry and verify as to whether the claim made by the petitioner as to whether his land has been utilized for laying the road. In those circumstances and there being no categorical denial, this Court prima facie find that the petitioner's claim as to his land has been affected for road widening is believable. However, one aspect of the matter which the learned Government Pleader as well as the learned standing counsel points out that to what extent the petitioner's land has been utilized for road widening purpose has not yet been determined. The same is not discernable either from the petitioner's affidavit or from the respondents counter-affidavit. As the petitioner's land was utilized as far back as in the year 2007 to avoid any further delay, this Court deems it appropriate to direct the District Collector, Nizamabad to call for the necessary particulars from the Engineering Department of the Panchayat Raj and ascertain as to what extent of the land of the petitioner has

been utilized for the purpose of laying road. However, it is also made clear that with respect to the ownership particulars, the District Collector, Nizamabad shall be entitled to call for the particulars required including the ownership documents for the purpose of ascertaining the claim made by the petitioner with respect to the land in issue. After the enquiry, if the District Collector comes to a conclusion that the petitioner's land has been occupied and utilized for the purpose of laying the road, he shall make an effort to settle the compensation issue by mutual negotiations. In the event, there is no agreement reached between the petitioner and the Government, the respondent authorities shall initiate appropriate land acquisition proceedings so as to determine the compensation that is required to be paid to the petitioner. As the petitioner had approached the Court after four years, while making assessment of the compensation, the said aspect also may be taken into consideration. The entire exercise with respect to the settlement of the issue shall be completed by the District Collector, Nizamabad within a period of four months from the date of receipt of copy of the order. The petitioner shall cooperate with the respondent authorities for settling the compensation issue by placing the necessary material as and when required.

With the above observations, the writ petition is disposed of.
No order as to costs.

Miscellaneous petitions, if any pending in this writ petition shall stand closed.

CHALLA KODANDARAM,J

Date:06.06.2017.
Gk.

HONB'E SRI JUSTICE CHALLA KODANDARAM



Gk.