

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No.9025 of 2010 and W.P.No.2640 of 2012

COMMON ORDER:

Since the issue involved in these writ petitions is one and the same, they are heard together and being disposed of by this common order.

2. In these writ petitions, the petitioners are residents of Nawabpet Village, Chigurumamidi Mandal, Karimnagar District. It is the case of the petitioners that pursuant to the proposal for widening of road from Huzurabad to Shanigaram of Koheda Mandal and Koheda Village to Indurthi Village, the properties of the petitioners have been demolished by the 3rd respondent – Executive Engineer, Panchayat Raj Department, Karimnagar, in March, 2001. At the time demolition of the structures, though the respondent authorities have promised to compensate the petitioners adequately, no compensation whatsoever has been paid to them.

3. However, when certain similarly situated persons approached this Hon'ble Court by way of filing writ petitions being W.P.No.387 of 2001 and W.P.No.23186 of 2008, land acquisition proceedings were directed to be issued with respect to their properties and when the said direction was not complied with, contempt proceedings in C.C.No.436 of 2001 were initiated against the respondent authorities. In the

process of considering the denial of the respondent authorities that, as a matter of fact, the properties of the petitioners therein were not damaged, this Court called for a report from the Superintendent of Police, Karimnagar, who inturn, submitted a report, categorically stating that 71 houses are demolished, particularly in order to widen the road at Nawabpet, whereas the land acquisition proceedings were initiated only with respect to the petitioners in W.P.No.23186 of 2008. Subsequently, on account of initiation of contempt proceedings, the petitioners in W.P.No.387 of 2001 and W.P.No.23186 of 2008 were paid compensation.

4. Having come to know about payment of compensation to the petitioners in W.P.No.387 of 2001 and W.P.No.23186 of 2008, the petitioners herein made a representation dated 14.11.2008, clearly setting out the details and extent of loss suffered by them on account of demolition of their properties, seeking payment of compensation. As there was no response from the respondent authorities even after a lapse of more than one year, the petitioners have approached this Court by way of filing the present writ petitions.

5. This Court, on noticing that there were no counters filed by any of the respondents, by order dated 06.06.2017 permitted the respondent authorities to file respective counters on or before 27.06.2017 on payment of costs of Rs.1,000/- by each respondent. Pursuant to the said

direction, counters have been filed by the respondent authorities.

6. As per the assertion in the counter affidavit filed on behalf of the 3rd respondent – Executive Engineer, Panchayat Raj Department, Karimnagar, the petitioners herein and other villagers had consented in the Grama Sabha conducted on 14.04.2000 for demolition of their properties for the purpose of widening of the road and they have not made any demand for payment of compensation at that point of time. Inasmuch as the petitioners have consented for demolition of their structures for the purpose of road widening, the road widening work was taken up and came to be completed. It is further submitted that on account of the orders passed by this Court in C.C.No.436 of 2001, the petitioners in W.P.No.387 of 2001 and W.P.No.23186 of 2008 were paid compensation. It is further stated that the compensation might have been paid to the said writ petitioners probably on account of their not consenting to handover their properties, unlike the petitioners herein, who had consented for road widening. It is also stated that as on the date of receipt of representation of the petitioners i.e., on 14.11.2008, the subject road was transferred to R & B Department, vide G.O.Ms.No.85 Transport, Roads & Building (R.V) Department, dated 08.04.2008; and G.O.Ms.No.283 Transport, Roads &

Building (R.V) Department, dated 01.10.2008, and as on date, it is the property of R & B Department.

7. The 4th respondent – District Collector, Karimnagar, virtually reiterated similar contentions in his counter affidavit. Likewise, in his counter, the 2nd respondent – Superintending Engineer, Roads & Buildings Circle, Karimnagar, had asserted that the subject roads have been handed over to the R & B Department in the year 2008 vide the above referred G.Os., and as on today, R & B Department is only maintaining the subject roads and, as such, the question of paying any compensation by their Department would not arise. It is not necessary for this Court to refer to the other assertions made on behalf of the said deponent.

8. Heard learned counsel for the petitioners as well as the learned Government Pleaders for the respective Departments and perused the material on record.

9. On a perusal of the affidavit filed in support of the writ petitions as well as the counter averments of the respective authorities and also the report of the Superintendent of Police, Karimnagar, referred to supra, it is clear that the properties of about 71 persons have been affected in the process of road widening. It is also clear from the record that compensation was paid only to the petitioners in W.P.No.387 of 2001 and W.P.No.23186 of 2008, that too under the threat

of contempt proceedings in C.C.No.436 of 2001. It is also not denied in the counter affidavits filed by the respondent authorities that the properties of the petitioners herein were not affected. However, the only ground on which the writ petitions are being resisted is, though the demolitions have taken place in the year 2001, the petitioners herein have approached the respondent authorities seeking payment of compensation, belatedly on 14.11.2008. In those circumstances, at this stage, it is not possible to ascertain the quantum of compensation payable to the petitioners herein and other effected persons. The contentions of the respondent authorities cannot be accepted, especially considering the admitted fact that even with respect to the petitioners in W.P.No.387 of 2001 and W.P.No.23186 of 2008, who had approached this Court in 2001 itself, compensation came to be paid by the respondent authorities only in the year 2008, that too under the threat of contempt proceedings. This Court cannot lose sight of the fact that the petitioners herein are all illiterate villagers, who have claimed as low as meager amount of Rs.5,000/- towards damages and they cannot be expected to approach this Court by incurring huge amount towards legal expenses. However, the fact remains is that they had approached the respondent authorities in November, 2008 seeking compensation for demolition of their properties and, admittedly, it took almost about 9 years for the respondent authorities to file counter affidavits, that too on

payment of costs. The fact that the petitioners' properties have been affected in the process of road widening and no compensation has been paid to them not being in dispute, there is a categorical violation of the petitioners' rights guaranteed under Article 300-A of the Constitution of India. The counters of the respective authorities, to say the least, is only shifting of responsibility on each other rather than trying to find out a solution for redressal of the grievance of the petitioners and other effected persons. So far as the quantum of compensation to be paid to the petitioners is concerned, as far back as on 14.11.2008, in all fairness, the petitioners have set out the value of the loss suffered by them in their representation, which can be the basis for making payment of compensation to them. The amounts claimed by the petitioners are all meager amounts, ranging from Rs.5,000/- to a maximum of Rs.35,000/-. In those circumstances, as admittedly, the road widening work was undertaken by the Panchayat Raj Department and subsequently the roads came to be handed over to the R & B Department in the year 2008, the duty and responsibility to pay the compensation amount to the petitioners and other affected persons rests with the State as well as Panchayat Raj Department.

10. In view of the above, these writ petitions are disposed of directing respondent Nos.3 and 4 to pass appropriate orders on the representation dated 14.11.2008 submitted by the

petitioners and determine the amount of compensation payable to them within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that the petitioners shall also be paid interest @ 6% per annum on the amount determined towards compensation, from the date of representation i.e., on 14.11.2008 till the date of payment of compensation. No order as to costs.

11. As a sequel, miscellaneous petitions pending, if any, in these writ petitions shall stand closed.

28.06.2017.
Msr

JUSTICE CHALLA KODANDA RAM



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28.06.2017
Msr