

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.40166 OF 2017

O R D E R :

This petition is filed for a writ of *Mandamus* declaring the proceedings vide Rc.L.A/NH5/4-6 lanes/411/2016, dated 14.10.2017, as illegal and arbitrary and for a consequential direction to the 3rd respondent to refer the Land Acquisition Award dated 15.09.2015 passed by the 3rd respondent vide proceedings No.Rc./LA/NH5/1429/2001, to the Arbitrator appointed by the 1st respondent in respect of the petitioners' lands in Sy.No.396/2 of Bollapalli Village, Martur Mandal, Prakasam District.

The case of the petitioners is that they are the assignees of the land to an extent of Ac.1.29 cents and Ac.1.00 cents, respectively, situated in Sy.No.396 of Bollapalli Village of Martur Mandal, Prakasam District; that the 1st respondent issued Gazette Notification through S.O.No.138(E), dated 20.01.2012 under Section 3A of the National Highways Act, 1956 proposing to acquire an extent of 961 square meters in Sy.No.396/1, belonging to the petitioner for widening of NH-5 from 4 lane to 6 lane and also paid compensation of an amount of Rs.1,83,000/- to the petitioner; that accordingly, the road was widened and completed long back. While so, in the last week of September, 2015 the officials of respondents came to petitioners' lands and stated that their lands were

acquired and compensation was also fixed as the said lands required for the purpose of construction of quarters for the staff of Toll Plaza. Immediately, the petitioner submitted representation dated 28.09.2015 to the District Collector, Prakasam District not to acquire their lands and also informed that there is Kondaporum Boke land is available in the vicinity, which can be utilized for the purpose of construction of quarters. As there is no response, the petitioner submitted an application under RTI Act, 2005 on 06.10.2015, requesting for certain information. Then the 3rd respondent furnished copy of proceedings dated 15.09.2015. On perusal of the said proceedings it is clear that an extent of 1254.88 and 4048.00 square meters of land belonging to the petitioners is acquired without issuing any notification on the ground that the said land is an assigned land assigned to the petitioners and that the 3rd respondent authority has fixed compensation for the lands belonging to the petitioners. Aggrieved by the action of the respondents, petitioners filed WP.No.39157 of 2015 seeking to declare the said proceedings as illegal and this Court granted interim stay for a period of ten weeks. Thereafter, the 3rd respondent invited the petitioners for amicable settlement and after discussions, the 1st petitioner accepted to receive an amount of Rs.11,27,100/- and the 2nd petitioner is accepted to receive Rs.21,21,600/-, with a condition to refer the matter to the Arbitrator appointed by the 1st respondent as per Section

3G(5) of the National Highways Act, 1956, and to that effect the petitioners also made an endorsement on the vouchers prepared by the 3rd respondent stating that cheque is received subject to referring the matter to the Arbitrator for enhancement of the compensation. Thereafter, the petitioners have withdrawn WP.No.39157/2015. But, the 3rd respondent did not refer the matter to the Arbitrator. Thereafter, the petitioners issued legal notices dated 26.09.2017, but instead of referring the matter to the Arbitrator, the 3rd respondent issued the impugned proceedings. Aggrieved by the same, present writ petition is filed.

Heard learned counsel for the petitioners.

Learned Assistant Government Pleader for Land Acquisition produced written instructions admitting that petitioners submitted a petition in Collector's Grievance Cell requesting for enhancement of compensation and to refer the appeal to Arbitrator. In the same instructions it is also stated that the appeal to Arbitrator shall be filed only by the land owners and not by the Competent Authority Land Acquisition. He also states that Collector is the Arbitrator who is appointed by the Central Government under the provisions of National Highways Act, 1956.

Learned counsel for the petitioners categorically stated that they have received the amount under protest and the

same has been endorsed on the vouchers also. The same is also admitted by the respondents.

Though it is admitted that the application of the petitioner is already pending before the Collector who is an Arbitrator, the respondents passed the impugned order simply stating that because the petitioners have withdrawn the writ petition their case cannot be entertained. It is unfortunate that the respondents instead of guiding the petitioners in proper perspective stated that the claim of the petitioners cannot be entertained, which drove the petitioners to file the present writ petition. The authorities are not meant to dismiss each and every claim. They cannot act adverse to the interest of the claimants who lost their lands. It is their bounden duty to guide the persons who lost their lands. Since it is admitted by the competent authority that the application of the petitioners for enhancement of compensation is pending before the Collector, who is said to be appointed as Arbitrator, they would have considered the petitioners' application, instead of passing the impugned order.

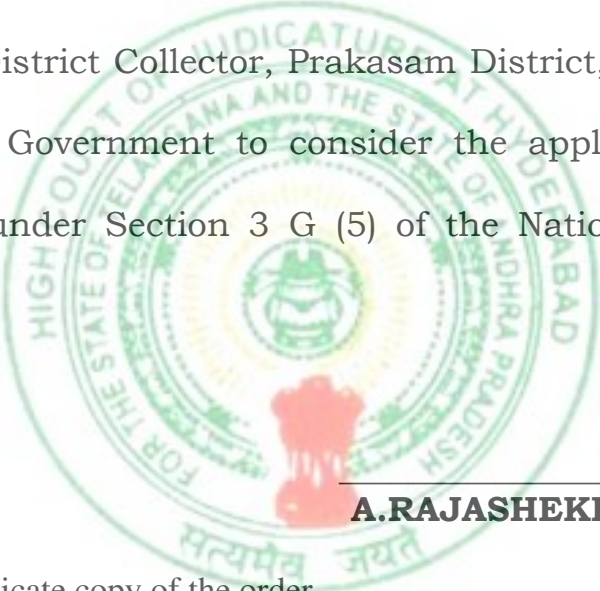
In view of the aforesaid facts and circumstances, the impugned order is set aside and it is open for the petitioner to file necessary material before the Collector/Arbitrator, and the Collector/Arbitrator is directed to consider and dispose of the application of the petitioner for enhancement of compensation, within a period of three months from the date

of receipt of a copy of this order. It is also open for the petitioners to make further application before the Arbitrator, if necessary.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

Office is directed to issue copy of the order to the Arbitrator/District Collector, Prakasam District, appointed by the Central Government to consider the application of the petitioners under Section 3 G (5) of the National Highways Act, 1956.



A.RAJASHEKER REDDY, J

08.12.2017

Note: Communicate copy of the order
to the District Collector, Prakasam District.
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