

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.11748 OF 2018

ORDER:

Heard the learned counsel for the petitioner, learned Government Pleader for Municipal Administration for 1st respondent, learned Government Pleader for Land Acquisition for 2nd respondent, and Sri N. Ashok Kumar learned counsel for 3rd respondent.

2. The petitioner owns 1172 Sq. yards out of 2100 Sq. yards in premises H.No.4-5-947 and 948 situated at Badichowdi Main Road, Hyderabad. He obtained title thereto under registered partition deed dated 22.05.2010.

3. This property was originally owned by his father and was inherited by him through the said document. In 1983, petitioner's father applied for permission for construction of a commercial complex comprising of Cellar + Ground Floor + 3 Upper Floors.

4. Permission was granted on 30.03.1983 *vide* permit No.171/1083 stating *inter-alia* that petitioner's father is to surrender advance possession of his land to an extent of 13 feet affected in widening of existing western side road to 80 feet wide, pending completion of land acquisition formalities.

5. However, this promise to initiate and complete land acquisition formalities for the said extent while taking possession by the 3rd respondent of said bit of land from petitioner's father at that time, was not honoured by 3rd respondent. Ultimately they did initiate proceedings under Land Acquisition Act, 1894 (for short, 'the Act') in the year 2010 though they even gave a notice under Section 5-A *vide* proceedings

No.B/546/2010 dated 30.12.2010 for notifying an extent of 37.76 Sq. meters and 45.17 Sq. yards showing the petitioner as owner thereof. The said proceedings were never completed for reasons best known to 3rd respondent.

6. Petitioner therefore filed the present Writ Petition contending that recently the respondents had initiated proceedings for acquiring properties of their neighbours for the purpose of Metro Rail but the petitioner's property has been excluded from the said land acquisition notification, even though the petitioner's property was also affected by the same. Petitioner gave representation on 06.03.2018 to the respondents but there is no response to the same by the respondents. Therefore, petitioner has filed the present Writ Petition challenging the inaction of the respondents in excluding his property admeasuring 200 Sq. yards in premises H.No.4-5-947 & 948 situated at Badichowdi Main Road, Hyderabad, in the proceedings initiated for acquisition under Act 30 of 2013.

7. Counter-affidavit is filed by 3rd respondent admitting that while granting permission in 1983 to petitioner's father, an extent of 13 feet depth of property belonging to the petitioner's family was taken for widening of existing road promising to initiate proceedings for acquisition under the then Land Acquisition Act, 1894. It is stated that though petitioner's father constructed his building leaving the road affected portion, due to certain administrative reasons the acquisition proceedings could not be initiated. It is stated that the G.H.M.C. would take steps and send proposals for payment of compensation to be made by the Hyderabad Metro Rail Limited (H.M.R.L.) since the affected area which is required by the latter is not ascertained. It is stated that the land acquisition proceedings would be initiated by both H.M.R.L. and G.H.M.C. and the G.H.M.C. will assist the H.M.R.L. in the process after undertaking

joint inspection of the property and decide the extent of land required from the petitioner's property for the H.M.R.L. corridor.

8. I am of the considered opinion that for the 13 feet depth of land portion taken by G.H.M.C. in 1983 from the petitioner's father, the responsibility is solely on the G.H.M.C. to acquire and pay compensation in accordance with law. Admittedly it has totally failed in this regard.

9. Therefore, for the extent which the petitioner's father was deprived of in 1983, the 3rd respondent alone shall initiate process for acquisition under Act 30 of 2013 within four (4) weeks from today and ensure payment of compensation under the said Act to the petitioner within six (6) months.

10. If the G.H.M.C. or H.M.R.L. want to take further extent of the property from the petitioner's existing property, it is open to the G.H.M.C. or H.M.R.L. or both to initiate action for acquisition of the same under the Act 30 of 2013 and pay compensation thereunder.

11. The Writ Petition is accordingly allowed as above.

12. Consequently, miscellaneous applications pending, if any, shall stand closed.

M.S.RAMACHANDRA RAO, J

Date: 27.04.2018.
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