

THE HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No. 23682 OF 2013

ORDER:

This Writ Petition is filed to declare the action of the respondents in trying to demolish the shops of the petitioners over and above the land notified under the provisions of Land Acquisition Act without making markings as illegal and arbitrary.

2. The case of the petitioners is that they are tenants and doing their respective businesses in the shops situated in the subject land. The subject land is required for Metro Rail Project. Notification under Section 4 (1) and declaration under Section 6 of the Act are published for acquiring the subject land. As per the said notification, the shops in which the petitioners are doing businesses are affected to the extent of 10 to 15 feet in length while the petitioners are in possession of extents ranging from 30 to 35 feet. Pursuant to the notices, the petitioners made representations on 05-08-2013 to respondent No. 2 stating that the authorities cannot demolish any structures beyond the notified extent.

3. On 16-08-2013, this Court issued an *interim* direction that the demolition must be carried out strictly in accordance with the notification and no demolition shall be allowed or permitted beyond what has been notified. As seen from the documents filed along with the Writ Petition, notice under Sections 9 (3) and

10 of the Act is issued calling upon the persons interested to appear and to file claims of interest. The representation dated 05-08-2013 of petitioner No. 2 shows that one Lakshmi Reddy is owner of the subject land and petitioner No. 2 obtained the same on lease in the year 1965 and has been continuing as tenant since then. In the said representation, petitioner No. 2 only seeks to demarcate the area that is sought to be taken possession so that the remaining portion can be used by him. Similar copies of representations are filed so far as other Writ Petitioners are concerned. Learned counsel for the petitioners has relied upon the order of this Court in W.P.No. 6320 of 2011 dated 29-11-2011. In view of the consent given by the petitioner therein, the said writ petition was disposed of directing the respondent therein not to object the petitioner for putting shutters after demolishing the structures. Learned counsel for the petitioner has also placed reliance upon ***Ushodaya Publications, Hyderabad, Vs. Commissioner, Municipal Corporation of Hyderabad and another***¹, to contend that possession of land cannot be taken without taking recourse to Hyderabad Municipal Corporation Act or Land Acquisition Act.

4. As the *interim* direction dated 16-08-2013 is to demolish the structures strictly in accordance with the notification, the said order might have taken effect by now. Now, the only plea of

¹ 2001 (3) ALD 173 (FB)

learned counsel for the petitioners is that they may be permitted to erect shutters to the structures whatever remained so that they can be used by them. However, the Writ Petition is filed without making owners of the subject shops as parties to the Writ Petition. No counter has been filed by the respondents till now.

5. In view of the facts and circumstances of the case, as the limited relief sought by the petitioners is to permit them to erect shutters to close the shops which are in their occupation, it is open to the petitioners to file representation to respondent No. 1 seeking the said relief, and upon filing such representation, respondent No. 1 is directed to consider the same and pass appropriate orders thereon in accordance with law after giving due opportunity to the owners of the subject shops.

6. The Writ Petition is disposed of accordingly. Pending miscellaneous petitions, if any, shall stand closed in consequence. No costs.

KONGARA VIJAYA LAKSHMI, J.

06-12-2018
JSK