

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

W.P. No.14216 of 2018ORDER:

This writ petition is filed challenging the notice in proceedings ROC No. ACP/ 2/ W No.53/ Cir-XII/ 2018, dated 06.03.2018 issued under Section 635 of the Greater Hyderabad Municipal Corporation Act, 1955 (hereinafter mentioned as "Act"). By this notice, the petitioner was directed to submit his registered ownership documents, link documents and municipal building permission copies of the premises bearing Door Nos. 1-5-160 to 162, situated at Kazipet, for verification.

2. The learned counsel for the petitioner would contend that in normal course, the petitioner would not have challenged the notice, but the subject in the notice refers to the purpose i.e., "for construction of storm water drain and duct", implying the fact that the respondent-Municipal Corporation is forcibly trying to dispossess the petitioner with the object of constructing the storm water drain and duct, and the same is not permissible under law. He would contend that it is not a bonafide exercise of power under Section 635 of the Act and the object of the said section is entirely different from the purpose indicated in the subject of the impugned notice. He would further submit that if the respondents require private property for public purpose, they have to follow the procedure as required by The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013), and without following such procedure and without paying compensation, the private properties cannot be acquired for any purpose, including construction of storm water drain and duct.

3. While refuting the stand of the petitioner, the learned Standing Counsel would submit that the object of serving notice on the petitioner was to verify the title of the petitioner and other requirements in the process of assessing the properties which are likely to be affected, and only for the purpose of assessing the appropriate compensation required to be paid for construction of storm water drain and duct, the impugned notice was issued. However, she would fairly submit that as per the master plan approved in the year 1971, if any properties are acquired for public purpose, including development activity, the Municipal Corporation would follow the due process of law, subject to proof of ownership of the properties.

4. It is the assertion of the learned counsel for the petitioner that the property in issue is a private property and construction was made in the said property after obtaining due permission from the Municipal Corporation. He would further contend that if the property of the petitioner is required for any public purpose, the petitioner can be dispossessed and the property can be utilized for public purpose, including construction of storm water drain and duct, but before this the Municipal Corporation is required to follow the procedure as required by Act 30 of 2013.

5. There can be no two opinions on following procedure required by law if private property is required for public purpose. Thus, the writ petition is disposed of, granting liberty to the Greater Warangal Municipal Corporation to follow the due process as required by 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013' (Act 30 of 2013), if they require the private property of the petitioner for public purpose. It is needless to observe that during the course of land acquisition process,

the Land Acquisition Officer is required to follow all formalities, including determination of compensation and persons entitled to receive compensation. Other than the issue of construction of storm water drain and duct, it is competent for the Municipal Corporation to take appropriate steps as laid down in Greater Hyderabad Municipal Corporation Act on any other aspect. No costs. Miscellaneous petitions pending, if any, stand closed.

P.NAVEEN RAO, J

Date: 27.11.2018
DMG

