

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.16971 of 2009

O R D E R:

In this writ petition, petitioners seek a direction to respondent No.2-Municipal Commissioner, Khammam Municipality to pay compensation for acquisition of their houses bearing Nos.4-1-3 and 4-1-2 respectively, along with site, situated at Venkatagiri Gate, Khammam Town & District.

The petitioners assert that they are the owners of the above said houses; that in the process of construction of Railway Over Bridge (ROB) at Venkatagiri Gate, their two houses were acquired and the estimated loss therefor is Rs.2,33,472/- and Rs.2,80,889/- respectively; that they filed LSA No.57 of 2005 before the District Legal Services Authority, Khammam, seeking compensation, which, in turn, issued notices to the authorities including the District Collector, Khammam and in spite of the same, there was no response, hence, the District Legal Services Authority passed an order on 17.06.2009 directing the petitioners to avail appropriate legal remedies.

In the counter-affidavit, respondent No.2 asserts that so far as petitioner No.1 is concerned, an extent of 25.09 and 38.64 square yards of land and structures in an extent of 114.57 and 84.09 square yards were affected and so far as petitioner No.2 is concerned, an extent of 49.13 square yards of land and structures of 105.00 square yards were affected. He further asserts that the

Mandal Revenue Officer was requested to allot suitable site to the petitioners.

Respondent No.2 filed additional-counter affidavit as directed by this Court, stating that the Municipality assisted the Roads & Buildings Department for removal of structures and that on 11.01.2003, the petitioners were directed to attend the meeting on 18.01.2003 along with the documents, but they failed to submit the same.

On behalf of respondent No.3-Roads & Buildings Department, Khammam, a counter-affidavit has been filed by the Executive Engineer asserting that a sum of Rs.939.00 lacs was estimated for construction of the Bridge at Venkatagiri Gate in view of L.C.No.105 at Railway km 485/20-22 at Venkatagiri Gate of Khazipet-Vijayawada Section in Khammam, in which the share of Roads & Buildings Department is Rs.363.86 lacs and the Municipal Administration & Urban Development Department is Rs.575.14 lacs, which includes the cost of land acquisition. He further asserts that administrative sanction was accorded on 23.08.2002 and pursuant to the letter, dated 03.09.2003, addressed by respondent No.2, respondent No.3 *vide* letter, dated 17.09.2003, submitted valuation report with respect to the structures affecting on account of the construction of ROB. He further asserts that in all, the properties of eight persons were affected and the amount of compensation was deposited by respondent No.3 with the Revenue Divisional Officer *vide* letter,

dated 24.02.2006. He further asserts that as they were in unauthorized possession of the houses in question, the petitioners were not entitled for compensation, but the District Collector, Khammam on humanitarian grounds, made recommendations to respondent No.1 to ratify the allotment of land to the affected persons, in the layout open spaces. Accordingly, the Government *vide* its Memo, dated 15.04.2015, has permitted the District Collector to identify the available vacant Government land around Khammam town. Thereafter, the Revenue Divisional Officer, Khammam addressed a letter, dated 22.04.2015, to the District Collector identifying the suitable Government land in Survey No.289 of Venkatagiri Village and requested for registration of 250 square yards each to the 19 affected persons. He further asserts that the District Collector *vide* order, dated 04.12.2009, permitted the Tahsildar, Khammam (Rural) to handover the land to respondent No.2 for registration. He further asserts that the entire issue relating to the land was being dealt with by the Revenue authorities and the Roads & Buildings Department has nothing to do with the same. He also asserts that a sum of Rs.8,40,333/- was deposited with the Revenue Divisional Officer, Khammam.

Learned counsel for the petitioners submits that the respondents have neither provided house sites to the petitioners nor paid compensation amount to them.

Learned Government Pleader for Roads & Buildings reiterates the averments in the counter-affidavit.

None appears for respondent No.2.

From the material on record, it is evident that portions of the houses of the petitioners were affected in the process of construction of the Bridge. Though the counter-affidavit filed on behalf of respondent No.3 speaks about the proposal with regard to allotment of 250 square yards of land to the affected persons in lieu of compensation, it is not clear whether any such allotment was made in favour of the petitioners or not.

It may be noted that in the absence of any specific assertion of the respondents that the petitioners were paid any compensation, it can be presumed that the petitioners were not paid the compensation. As there being no dispute that the properties of the petitioners were affected, the respondents are entitled to pay the compensation to them.

Considering the variegated stands taken by respondent Nos. 2 and 3 in their respective counter-affidavits, in the interests of justice, the writ petition is allowed directing the respondents, particularly, respondent No.1-Principal Secretary to Government, Municipal Administration and Urban Development Department, Secretariat, Hyderabad, to ensure that the compensation amount is determined and paid to the petitioners with respect to their properties, within a period of eight weeks from the date of receipt

of a copy of this order. Further, as the land and the structures of the petitioners were acquired in the year 2004-05, the respondents shall pay the compensation to be decided with interest at the rate of 15 % per annum in terms of the proviso to Section 28 of the Land Acquisition Act, 1894.

Miscellaneous petitions, if any, pending in this writ petition shall stand disposed of. There shall be no order as to costs.

Dt:20.09.2018

kdl

CHALLA KODANDA RAM, J

