

THE HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No. 12214 OF 2013

ORDER:

This Writ Petition is filed to declare the action of the respondents in trying to demolish the Vysya Hostel Trust Board Building in premises bearing No.3-4-283 situated at Kachiguda, Hyderabad 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 of third respondent 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) of the Land Acquisition Act, was issued on 23.4.2012 seeking to acquire an extent of 1830.31 square yards for the purpose of road widening. As per the said notification, the shops in which the petitioners are doing businesses are affected to the extent of 266.15 square yards. Pursuant to the notices, the petitioners made representations on 11.12.2012 to respondent No. 2 stating that the authorities cannot demolish any structures beyond the notified extent.

3. On 23-04-2013, this Court issued an *interim* direction as follows:

“ In the meanwhile, the petitioners’ possession in respect of the building in premises No.3-4-283 situated at Kachiguda, Hyderabad to the extent not notified for acquisition shall not be demolished”.

As seen from the documents filed along with the Writ Petition, notice under Sections 9 (3) and 10 of the Act was issued calling upon the persons interested to appear and to file claims of interest. The representation dated 11.12.2012 of petitioners shows that the petitioners seek to demarcate the area that is sought to be taken possession so that the remaining portion can be protected. Learned counsel for the petitioners has relied upon the order of this Court in W.P.No. 6320 of 2011 dated 29-11-2011. The said Writ Petition is disposed of directing the respondents therein to demolish the structures which are required for demolition in view of the consent given by the petitioner therein and in those circumstances, the corporation is directed not to object the petitioner for putting shutters after demolishing the structures. Learned counsel for the petitioner has also placed reliance on ***Ushodaya Publications, Hyderabad, Vs. Commissioner, Municipal Corporation of Hyderabad and another¹***, to contend that possession of land cannot be taken without taking course to Hyderabad Municipal Corporation Act or Land Acquisition Act.

4. As the *interim* direction dated 23-04-2013 is that the petitioners' possession in respect of the building in premises No.3-4-283 situated at Kachiguda, Hyderabad to the extent not notified for acquisition shall not be demolished, the said order might have taken effect by now. Now, the only plea of learned

¹ 2001 (3) ALD 173 (FB)

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.

5. No counter has been filed by the respondents till now.

6. 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, the petitioners are given liberty to file representation to respondent No. 1 seeking the said relief within a period of six weeks from the date of receipt of a copy of this order and upon filing such representation, respondent No. 1 is directed to consider the same and pass appropriate orders thereon in accordance with law within a period of eight weeks thereafter after giving due opportunity to both the petitioners and the owners of the subject shops.

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

KONGARA VIJAYA LAKSHMI, J.

20-12-2018

slk