

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.28838 of 2018

ORDER:

This Writ Petition is filed for the following relief:

“For the reasons afore-stated, it is prayed that this Hon’ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing proceedings No.129032/2017 dated 22.08.2017 seeking to acquire land overlooking the petitioner’s representation/objections dated 04.09.2017 and without paying any compensation as illegal, arbitrary, unconstitutional and contrary to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, apart from being violative of Article 300-A of the Constitution of India and consequently, set aside the proceedings No.129032/2017 dated 22.08.2017 issued by the 2nd respondent.”

Learned counsel for the petitioner submits that it is mentioned in the impugned notice issued by the second respondent that in lieu of acquisition of property for road widening, the Government would provide 1:2 TDR bonds, but, so far as the petitioner and other similarly situated persons are concerned, 1:4 TDR bonds are being offered. He also submits that the respondents cannot insist upon or force the petitioner to

accept such TDR bonds and that they may be directed to acquire the petitioner's property only after considering his objections/representation, dated 04.09.2017 and by paying compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Learned Standing Counsel for Vijayawada Municipal Corporation appearing for the second respondent submits that the second respondent initiated proceedings against the petitioner and other similarly situated persons in exercise of his powers under Section 146 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'), as applicable to Vijayawada Municipal Corporation. He also submits that final decision can be arrived at by the respondent authorities only after considering the objections raised by the petitioner and other similarly situated persons and thereby, the Writ Petition is premature in nature.

It may be noted that as per Section 146 of the Act, whenever any property is required for public purpose, the Commissioner is entitled to acquire the same by agreement on such terms at such rates or prices not exceeding such maxima as shall be approved by the Standing Committee, either generally

for any class of cases or specially in a particular case. Further, a perusal of the impugned notice reveals that the second respondent asked the petitioner to give consent to acquire his property and to produce relevant documents in relation thereto. In view of the same and as it is the case of the petitioner that he already submitted objections/representation on 04.09.2017 and such notice was also issued to other similarly situated persons, the impugned notice cannot be termed as arbitrary. It may also be noted that acquisition of immovable property for the public purpose would be done only after following due procedure under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and such procedure would involve considerable time and expenditure which can be avoided if a negotiated settlement can be arrived at. Viewed in that angle, it cannot be said that the procedure adopted by the respondent Corporation inviting the property owners to come for negotiated settlement cannot be said to be arbitrary or unauthorized. In the circumstances, this Court is not inclined to grant any relief to the petitioner at this stage. However, the petitioner is permitted to participate in the enquiry and put forward his case before the authorities concerned, who in turn

would consider the same keeping in view the rights guaranteed under Article 300-A of the Constitution of India.

With the above liberty, the Writ Petition is disposed of.

Miscellaneous Petitions, if any pending, shall stand closed.

There shall be no order as to costs.

CHALLA KODANDA RAM, J

14th AUGUST, 2018.

Note: L.R. Copy be marked.

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