

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 24903 of 2009

O R D E R:

In this writ petition, petitioner challenges the notice, dated 18.09.2009, which reads as under:

“As part of development of the town and in view of traffic problem at Subash road, the Anantapur Municipal Corporation has taken decision to remove all the structures affected by the 80'-0" wide Master Plan road from sapthagiri circle to surya road junction. The existing road is proposed to be widened to 80'-0" as per sanctioned master plan of Anantapur town sanctioned in G.O.Ms.No.1122 MA dated 13.10.1981.

As your property i.e. vacate site/building bearing D.Nos.11/173, 174 measuring 23.5X10 square feet orsquare yards is affected by road widening. Hence, you are hereby directed/requested to remove the structures from the affected area and handover the site to the Anantapur Municipal Corporation for road purpose. If you voluntarily handed over the affected site on free of cost there shall be relaxation in F.S.I. as per G.O.Ms.No.33, MA dated 03.02.2001 for further construction in the remaining part of the site/over the existing building.”

The case of the petitioners is that they are the owners of the subject building. By the impugned notice, they were directed to remove the affected area as it is required for road widening. The object of respondent No.1 for widening the road is laudable and appreciable. However, if any property of a citizen is likely to be affected for the purpose of road widening, the respondent Corporation is duty bound to compensate the affected party by paying adequate compensation. As a matter of fact, payment of compensation to the affected party with respect to immovable

property is governed under Section 146 of the Hyderabad Municipal Corporation Act, 1955, as applicable to Ananthapur Municipal Corporation.

On 17.11.2009, while admitting the writ petition, this Court granted interim stay of demolition of the structures belonging to the petitioners in pursuance of the impugned notice by observing that the said order would not preclude the respondents from notifying the portions of the property required for the purpose of road widening under the provisions of the Land Acquisition Act, 1894.

It may be noted that as on today, the respondents have not filed any counter-affidavit. However, learned Standing Counsel for the respondents, on instructions, submits that though the impugned notice was issued, no work was undertaken by the respondent authorities for road widening and only a divider came to be erected.

In those circumstances and in the light of the fact that acquisition of the property can be done only by following due process of law, the writ petition is disposed of making it clear that any property that is required for the purpose of road widening can be acquired only after following due process of law.

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

CHALLA KODANDA RAM, J

Dt:14.08.2018
kdl

