

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.41186 of 2014

ORDER:

Petitioners own Ac.0.15 gts of land in Sy.No.664/1 and Ac.0.13 gts in Sy.No.664/1/A of Mahabubabad village and Mandal, Warangal District. This property was owned by their grand father Shaik Madar.

2. Petitioners contend that their land was utilized for laying of Necklace road around Nizam Cheruvu of Mahabubabad village, but no compensation was paid to them. Petitioners contend that this action of respondents in depriving them of their land without initiating any proceedings under the Land Acquisition Act, 1894 and without making payment of market value compensation to them violates Article 300-A of the Constitution of India and seeks a direction to the respondents to pay them the said compensation for the said land utilized for laying Necklace road around Nizam Cheruvu of Mahabubabad village.

3. Petitioners contend that one Takoor Kishore Singh had also filed W.P.No.31630 of 2010 in this Court when his land was taken for construction of Necklace road around Nizam Cheruvu and the said Writ Petition was allowed on 24-03-2013 directing steps to be taken for acquisition of the said land, and thereafter compensation was paid to the said person, and petitioners also should be given benefit of the said decision.

4. Petitioners also contend that a legal notice was got issued by them on 31-05-2014 to the Land Acquisition Officer & Revenue Divisional Officer, Mahabubabad demanding compensation for their land of Ac.0.28 gts in Sy.No.664 and to take immediate steps to acquire their land and pay compensation, but no steps have been taken by respondents in that regard. Copies of pahanis have been filed by petitioners in support of their claim that the land in Sy.No.664/1 and 664/1/A referred to above belongs to them.

5. On 23-01-2015, this Court directed the 3rd respondent to survey and demarcate Sy.No.664/1 and 664/1/A apart from Sy.No.651 and 652 and file a report before this Court indicating whether any land in Sy.Nos.664/1 and 664/1/A is affected in the formation of Necklace Road, Nizam Cheruvu. The matter was next listed on 10-03-2015, but the said report, as sought by this Court, has not been filed. The matter underwent subsequent adjournments on 30-03-2015, 13-04-2015, 15-03-2018 and 09-07-2018.

6. On 17-07-2018, learned Government Pleader for Land Acquisition appearing for 1st respondent has brought to the notice of this Court that a letter dt.30-06-2018 was addressed to the District Panchayat Raj Engineer, Mahabubabad to send requisition as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) for initiating proceedings thereunder in regard to the land claimed by

petitioners, but there was no response from the District Panchayat Raj Engineer, Mahabubabad.

7. On the basis of the said submission, a direction was given on 17-07-2018 by this Court to the Executive Engineer (Panchayat Raj), Mahabubabad and the Mandal Prajaparishad Development Officer, Mahabubabad Mandal (respondent Nos.4 and 5) to appear before this Court on 24-07-2018 and explain why they are not responding to the communication dt.30-06-2018 of the Revenue Divisional Officer, Mahabubabad for sending requisition for acquiring petitioners' property.

8. On 24-07-2018, a counter-affidavit was filed by the 4th respondent in the matter.

9. Though 4th respondent claimed that he had no knowledge over petitioners' title to the land admeasuring Ac.0.28 gts in Sy.Nos.664/1 and 664/1/A, he stated that during the year 2002 under Food For Work programme, the District Collector has accorded sanction for laying of roads in Mahabubabad Mandal vide proceedings dt.09-03-2002 and accordingly DWMA, Warangal has implemented the programme for the formation of Necklace road around the Nizam Cheruvu and work was executed through Mandal Prajaparishad Development Officer, Mahabubabad (5th respondent).

10. Along with the counter affidavit, letter Rc.No.A/1756/2013 dt.13-01-2016 addressed by the 3rd respondent to the 4th respondent is

filed. This letter states that this Court in the Writ Petition had directed to demarcate the land of petitioners; that the Tahsildar, Mahabubabad has furnished the survey along with location sketch of Sy.No.664/1 of Mahabubabad, that this had been sent to the Assistant Director, Survey and Land Records, Warangal for scrutiny on 14-09-2015 and the Assistant Director, Survey and Land Records has submitted subdivision record of Sy.No.664 for an extent of Ac.0.19 gts situated in Mahabubabad village and Mandal on 01-12-2015. It is further stated that in the said letter that the 4th respondent should send a requisition for this Ac.0.19 gts in Sy.No.664 of Mahabubabad through proper channel for taking further action under Right to Fair Compensation, Transparency in Land Acquisition, Resettlement and Rehabilitation Act, 2013 (for short 'Act 30/2013') .

11. Respondents have also filed proceedings Rc.A/1756/2013 dt.02-08-2016 of the 3rd respondent addressed to the 4th respondent. In the said letter it is stated that the Sub-Registrar, Mahabubabad on 16-07-2016 had submitted basic market value of the land in Sy.No.664. On that basis, a sum of Rs.16,51,597/- is payable.

12. Proceedings Rc.No.DB/B1/B5/ 318/Necklace Road/2014 dt.07-06-2017 of the District Panchayat Raj Engineer, Mahabubabad addressed to the District Collector, Mahabubabad is also enclosed and the said letter is the requisition for land acquisition for Ac.0.19 gts belonging to the petitioners in Sy.No.664 along with the land belonging to Takoor Kishore Singh, who succeeded in W.P.No.31630

of 2010 and whose land was in Sy.No.651 and 652 of the said village. In the said proceeding, it is also mentioned that G.O.Rt.No.117, Panchayat Raj & Rural Development (Prog.I) Department dt.16-02-2017 has been issued by the Government sanctioning Rs.46,39,444/- towards payment of land compensation to the land claimed by Takoor Kishore Singh.

13. Another proceeding Rc.No.A/1756/2013 dt.31-07-2017 addressed by the Revenue Divisional Officer, Mahabubabad to the District Panchayat Raj Engineer, Mahabubabad requesting the latter to file requisition under Act 30 of 2013 as amended by the Telangana Amendment Act 2016 (Act 21 of 2017) was also filed.

14. On 31-10-2017, the District Panchayat Raj Engineer, Mahabubabad wrote to the Superintending Engineer, Panchayat Raj Region, Warangal requesting the latter to issue instructions for filing a requisition to the District Collector, Mahabubabad towards compensation of land compensation to the petitioners in this Writ Petition along with petitioners in W.P.No.31630 of 2010; the Superintending Engineer, Panchayat Raj Region, Warangal addressed the Engineer-in-Chief, Panchayat Raj, Hyderabad on 20-11-2017 to issue instructions for filing of requisition to the District Collector towards payment of land compensation to the petitioners; and thereafter a memo was issued on 18-05-2018 by the Engineer-in-Chief to obtain written instructions from the Revenue Officials to obtain

permission from the Government for exemption for Section 10-A of the Amendment Land Acquisition Act No.21 of 2017.

15. The 3rd Respondent had sent a reminder to the District Panchayat Raj Engineer, Mahabubabad on 30-06-2018 requesting the latter to give requisition immediately under Act 20 of 2013 as amended by Act 21 of 2017 in the prescribed format.

16. A further reminder was also issued by the 3rd respondent to the 4th respondent on 17-07-2018 requesting the latter to file requisition duly exempting Chapter II and III under Section 10(A) of Act 21 of 2017.

17. Ultimately, on 17-07-2018, the District Panchayat Raj Engineer, Mahabubabad wrote to the Engineer-in-Chief, Panchayat Raj, Hyderabad to obtain Section 10-A exemption for paying compensation to the petitioners.

18. It is stated in the counter affidavit that the amount sanctioned in G.O.Rt.No.117 dt.16-02-2017 by the State Government is for payment of compensation to the land owners in both W.P.No.31630 of 2010 and to petitioners in this Writ Petition. It is stated that exemption from the Government under Section 10-A of Act 21 of 2017 is awaited and as soon as it is received, other formalities will be completed and compensation will be paid to the petitioners.

19. Having regard to the report of the Revenue Divisional Officer, Mahabubabad in Rc.No.A/1756/2016 dt.13-01-2016 addressed to the

Executive Engineer, Panchayat Raj, Mahabubabad that Ac.0.19 gts in Sy.No.664 of petitioners was utilized for laying the Necklace Road around Nizam Sagar cheruvu and having regard to the correspondence between the 3rd respondent and 4th respondent and the Engineer-in-Chief, Panchayt Raj, Hyderabad referred to above, the Engineer-in-Chief, Hyderabad is directed to address the 1st respondent, within two (02) weeks from the date of receipt of copy of this order, for grant of exemption under Section 10-A of Act 21 of 2017 in regard to the land of the petitioners; the 1st respondent shall take a decision thereon within three (03) weeks thereafter and communicate the same to the 2nd respondent and to the other respondents; and within three (03) months from the date of such decision being taken by 1st respondent, the respondents shall initiate and conclude the proceedings under Act 30 of 2013 as amended by Act 21 of 2017 and pay compensation of Ac.0.19 gts of land of the petitioners taken away for the purpose of laying Necklace Road around Nizam Sagar cheruvu and pay compensation for the same under the said statute to the petitioners.

20. The Writ Petition is accordingly allowed with the above directions. No costs.

21. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 17-08-2018

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