

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.38470 OF 2018

Date:30.10.2018

Between:

K. V. Srinivasa Rao, S/o. K. V. Sita Rama
Swamy, aged about 67 years,
R/o.H.No.24-147/15, East Anand
Bagh, Safilguda, Hyderabad and another .. Petitioners

And

The State of Telangana, rep., by its
Principal Secretary, Municipal
Administration Department, Secretariat
Buildings, Hyderabad and others .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.38470 OF 2018****ORDER:**

Heard.

2. Petitioners claim to have purchased various extents of land bearing Plot Nots.59, 60 and 61/1, respectively, in Survey Nos.41/1, 474, of Anand Bagh, Malkajgiri, Vallabhanagar Taluk, Ranga Reddy District, and claim to be in possession of those properties. The Greater Hyderabad Municipal Corporation issued notice dated 06.10.2018 requesting petitioners to express their willingness to part with the plots which are required by the Municipal Corporation for constructing 100 feet wide road. In this Writ Petition, petitioners challenge the said notice.

3. Learned counsel for the petitioners sought to contend that there are encroachments on 100 feet road opposite to the petitioners' properties and if those encroachments are removed, there is no need to acquire private land for the purpose mentioned in the notice and without removing the encroachments, the Municipal Corporation could not insist the petitioners to part with their land.

4. Section 146 of the Hyderabad Municipal Corporation Act enables the owner to negotiate with the Municipal Corporation for parting with their land and receive compensation. It is not mandatory for the owner of the property to give consent for such acquisition by way of negotiations and if the owner of the property is not willing to part with his land, it is mandatory for the

Municipal Corporation to resort to compulsory acquisition under the Land Acquisition Act, 2013. Whether non-eviction of the alleged encroachers on the public road is valid or whether there are encroachments on the public road cannot be decided in the Writ Petition. It cannot be said, at this stage, that even if encroachers are removed, the proposed land is not required for construction of road under bridge. It is suffice to note that if the petitioners are not interested in parting with their land by negotiations, it is open to them to inform the Municipal Corporation. If the land acquisition proceedings are set in motion, during the land acquisition proceedings, it is always open to the petitioners to raise all objections as available in law including the objections raised in the present Writ Petition.

5. The only issue for consideration is, whether the notice issued on 06.10.2018 is valid? As notice only requires petitioners to express their willingness to part with their land and there is no compulsion, the said notice need not be set aside. The Court is not inclined to go into other aspects, which are independent to the notice issued.

6. Hence, leaving it open to the petitioners to avail appropriate remedies as available in law, the Writ Petition is dismissed. Pending Miscellaneous Petitions, if any, shall stand closed.

P. NAVEEN RAO, J

Date:30.10.2018

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