

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.1875 of 2019

O R D E R:

Petitioner asserts that he is the owner of house bearing No.6-62, Garden Colony, Quthbullapur Village and Mandal, Medchal District; that respondent No.2-Commissioner, Greater Hyderabad Municipal Corporation, issued a notice to her on 14.11.2017 directing her to handover a portion of 31.66 square yards of land of her house for the purpose of road widening from Ambedkar Junction (Narsapur State Highway) to Suchitra Junction (NH-7) via Quthbullapur Village, Vennelagadda, Medchal District, and compensation will be arranged for structures as per R & B Schedule rates and in lieu of the land value relaxation as per G.O.Ms.Nos.168 and 7, dated 07.04.2012 and 05.01.2016 respectively; that as the petitioner is not willing to accept the compensation as per the schedules fixed by the Municipal Corporation, it is clear that in terms of Sections 146 and 147 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'), there is no consent given by the petitioner for acquisition of the property by agreement; that the procedure required to be followed in terms of Section 147 of the Act is by issuance of notification under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act 30 of 2013'); that as on date, no proceedings have been initiated by the respondent authorities; that once again on 20.12.2018, the staff of

respondent Nos.2 and 3 came to the premises of the petitioner and threatened to handover the subject property within a week, as otherwise, they would be forced to demolish the same without any further notice that as the petitioner does not have any objection to handover the property, the respondents are bound to follow the procedure prescribed in law particularly the provisions of Act 30 of 2013. In the circumstances, he prays for a writ of mandamus.

Learned Standing Counsel for GHMC appearing for respondent Nos.2 and 3 submits that the respondent authorities shall not take any coercive steps against the petitioner without following due process and that if the petitioner is willing to accept the compensation on negotiated terms, the respondent authorities would follow the procedure prescribed in law, particularly, the one under Section 147 of the Act read with Act 30 of 2013.

Having regard to the facts of the case and there being no dispute that the property of the petitioner is required for road widening, in the event of there being any settlement arrived at in terms of Section 146 of the Act, the respondent authorities are bound to follow the procedure prescribed in terms of Act 30 of 2013 as Section 38 of Act 30 of 2013 mandates payment of compensation to the property owner before possession can be taken.

In those circumstances, the writ petition is disposed of with the direction to the respondent authorities not to interfere with the peaceful possession and enjoyment of the petitioner over the

property in question, without following the procedure prescribed under Section 146 of the Act and without complying with Section 38 of Act 30 of 2013.

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

CHALLA KODANDA RAM, J

Dt:01.02.2019

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