

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 6519 of 2019

ORDER:

Petitioner asserts that he inherited the land admeasuring approximately Acs.2.00 in Survey No.143 of Khammampadu Village, Madhira Mandal, Khammam District; that on account of widening of the road leading to Rayapatnam-Illuru road and Dendugkuru-Chilkuru road, a notification was issued for acquiring Ac.0.30 guntas of land, as such, the land, which is in his possession, became un-useful and thereby, he is facing hardship and that at the instance of the third parties, the alignment has been changed. Therefore, he prays for a writ of mandamus.

Heard learned counsel for the petitioner.

Learned Government Pleader for Land Acquisition disputes the assertions of the petitioner. He points out that in the absence of any information or material before this Court to that effect, it cannot be said that there are *mala fides* on the part of the respondent authorities, as the alignment of the road is based on technical parameters. Therefore, he prays for dismissal of the writ petition.

The grievance of the petitioner is two-fold; (1) with regard to the alleged change of alignment of the existing road, and (2) he may not get fair compensation. As it is rightly pointed out by the learned Government Pleader, it is for the Revenue Department to fix the alignment and in the absence of specific material, this Court cannot

assume that there is *mala fide* on the part of the respondent authorities in fixing the alignment, which would depend upon various factors. Even as per the sketch provided by the petitioner, instead of going around the existing road, a straight line approach has been adopted for laying the road, which, incidentally, passes through the land of the petitioner. In the laying of the road, the lands of the petitioner and others are acquired.

So far as the apprehension of the petitioner that he would not get fair compensation on account of severance of the land into two pieces is concerned, the said aspect of the matter is to be dealt with during the award enquiry in terms of Sections 21 and 23 of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act 30 of 2013'). The Land Acquisition Officer is required to take into consideration the severance aspect and usability and un-usability of the balance land. When such matters are brought before him, he is duty-bound to consider those aspects and deal with the same in the award enquiry.

So far as the standing crop, which is alleged to be in the land of the petitioner as on date is concerned, in the event the Land Acquisition Officer desires to utilize the crop, he is required to pay the compensation, otherwise, the same can be taken away by the petitioner. Further, till the date of passing of the award, the land does not vest in the Government. However, since the acquisition of land and awarding of compensation with respect to the same are all

matters which are in the realm of enquiry, the same are not required to be addressed at this stage except that the petitioner would be entitled to put forward his grievance before the Land Acquisition Officer in the process of enquiry or even before the enquiry in terms of the objections to the notification that may be issued under Sections 15 and 19 of Act 30 of 2013.

Subject to the above, the writ petition is disposed of.

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

Dt:28.03.2019

kdl

CHALLA KODANDA RAM, J



