

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.8151 of 2019

ORDER:

The petitioner is aggrieved by the action of the respondent authorities in not following due process of law and paying compensation under the Land Acquisition Act, while proposing to take possession of her premises bearing H.No.7-1/206, LIG, Nallagandla Village, Serilingampally Mandal, Ranga Reddy District, for road widening.

Brief facts of the case are that the petitioner is the owner of land admeasuring 118.4 square yards, and she constructed the afore-stated building after obtaining construction permission from Greater Hyderabad Municipal Corporation on 06.06.2012. The respondent authorities, in furtherance of the proposal to widen the existing 80 feet road to 100 feet, issued Public Notice dated 29.12.2018 regarding acquisition of petitioner's premises. It is the allegation of the petitioner that the respondent authorities are interfering with her peaceful possession and enjoyment of the property, without following due process and paying compensation as mandated under the Land Acquisition Act.

Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development; learned Government Pleader for Land Acquisition; learned Government Pleader for Roads and Buildings; Sri Y. Rama Rao, learned Standing Counsel for HMDA; and Sri Sampath Prabhakar, learned Standing Counsel for GHMC.

Learned counsel for the petitioner contends that though the Public Notice dated 29.12.2018 shows that 36 square yards of petitioner's land

would be acquired for road widening, however, in effect only 26.26 square yards of petitioner's land would be enough for the purpose and, therefore, the proposed acquisition of 36 square yards is on an erroneous calculation. The petitioner submitted a detailed representation on 26.03.2019 bringing to the notice of the respondent authorities the said anomaly in calculating the extent of her land required for road widening. It is further contended that the petitioner has only 118.4 square yards land, and in case 36 square yards is acquired, the petitioner would be left with only about 82.4 square yards which would be too small to make any habitable construction. It is also contended that such small chunk of plot with insufficient/insignificant dimensions would either be useless or diminish in value, and therefore she would be entitled to severance and solatium. It is also contended that similarly situated land of 231 square yards in the locality was sold at Rs.1,68,74,550/-, i.e., at Rs.73,050/- per square yard, and therefore, the petitioner submitted representations on 01.02.2019, 12.03.2019 and on 26.03.2019 urging the authorities to pass appropriate Award by taking into consideration *inter alia* the damages, severance, solatium etc.

Learned Government Pleader for Land Acquisition would assert that depending on the present needs, and also keeping in view the future requirement, land acquisition proceedings were initiated for the purpose of road widening. Whether a land would be suitable or not and what extent of land is required, are the things to be considered at the stage of enquiry under Section 15 of the Act and issuing Section 19 Declaration.

It is pertinent to observe here that in a large number of judgments, the judicial dicta is to the effect that in the process of acquisition, if a particular piece of land, which is being left over in the hands of the citizen, is so insignificant rendering it either valueless or diminishing in value, the

Land Acquisition Officer, is required to take into consideration that aspect as well, and award appropriate severance compensation by taking into consideration the loss the citizen would suffer on account of unsuitability of such left over land for use for any purpose. This aspect of the matter is required to be kept in mind by the Land Acquisition Officer while making the Award.

In view of the above, as the Award is yet to be passed, the petitioner shall be at liberty to place necessary material before the Land Acquisition Officer, bringing to his notice her specific grievance with respect to incorrect calculation of extent of land required for acquisition, and the loss that she would suffer on account of such partial acquisition of her land. On such representation by the petitioner, the Land Acquisition Officer shall take into consideration her claims before passing the Award, as compensation is required to be determined qua the petitioner/land loser. It is also made clear that without passing the Award and paying the compensation as determined in the Award by complying with the requirement of paying compensation under Section 38 of the Act, the respondents shall not interfere or demolish any structures of the petitioner.

Subject to the above, the writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, shall stand closed.

29th April, 2019

KSM

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