

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.8253 of 2019

ORDER:

This is a case where the petitioners challenge the award dated 16.03.2019 on various grounds.

2. One of the principal contentions urged by the learned counsel for the petitioners is that the rehabilitation and resettlement, which is mandated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act'), is not being implemented. It is also the contention of the learned counsel for the petitioners that, even if exemption notification under Section 10-A of the Act is issued, the implementation of rehabilitation and resettlement is mandatory. Learned counsel would rely on the order of this Court in WP.No.5338 of 2019 dated 15.03.2019 wherein this Court directed that without paying monetary compensation, the possession of the property of the petitioner shall not be taken. Further, this Court also directed the respondents to file an affidavit setting out the time frame within which the rehabilitation and resettlement arrangements will be made. Learned counsel prays for similar order being passed in this writ petition as well.

3. Learned Government Pleader filed a detailed counter affidavit setting out in how and what manner the rehabilitation and resettlement provisions are not applicable on account of exemption under Section 10-A of the Act. However, the learned Government Pleader would assure that without paying monetary compensation, the possession would not be taken and in the event of the petitioners

not being satisfied with the amount of compensation, they are at liberty to approach the authority constituted under Section 51 read with Section 64 of the Act.

4. Having regard to the respective submissions and having regard to the scope of Section 64 of the Act, it is clear that Section 64 of the Act is wide enough to consider even the rights with respect to rehabilitation and resettlement under Chapters V and VI of the Act including the apportionment of compensation among persons interested. As to what extent rehabilitation and resettlement is required to be made and as to what extent the petitioners are entitled, is to be determined by taking the factual data into consideration.

In those circumstances, leaving it open to the petitioners to approach the authority or seek, by way of application to the Collector, to refer the matter to the competent authority, the writ petition is disposed of. It is also, further, made clear that the properties of the petitioners shall not be taken possession of without completely paying the monetary compensation. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

April 22, 2019
DSK