

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos.7918, 7946 and 8489 of 2019

COMMON ORDER:

The petitioners are aggrieved by the action of the respondent authorities in proposing to widen the existing 100 feet road to 150 feet.

Brief facts of the case are that the petitioners are owners of different extents of plots in Nallagandla Village, GHMC Serilingampally Municipal Circle, Ranga Reddy Districts. It is their assertion that their plots are proposed to be acquired for the purpose of widening the existing road, however, the respondent authorities, without following due process and paying compensation as mandated under the Land Acquisition Act, are interfering with their peaceful possession and enjoyment of the property.

Heard 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 petitioners contend that the widening of the existing road to 150 feet is not at all required as the existing road is already of 100 feet width and the same is sufficient, and the Land Acquisition Officer has not taken into consideration this aspect.

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 particular land is suitable or not is required to

be considered at the stage of enquiry under Section 15 of the Act and, as on date, Declaration under Section 19 of the Act has also been made on 23.08.2018 and as there is no challenge to Section 19 declaration, the requirement, suitability and the purpose for which the land is being acquired has become final. Learned Government Pleader would further assert that the case is at the stage of Award enquiry which has already been conducted on 01.02.2019, and this Court cannot decide the suitability or otherwise of the land being acquired.

Having regard to the respective submissions, though the learned Government Pleader for Land Acquisition pointed out rightly that this Court cannot decide the requirement, suitability or otherwise of the road being widened, however, those issues are required to be considered at the stages of Sections 15 and 19 of land acquisition proceedings. Further, in the present case, there is no dispute that Section 19 Declaration has already been made on 23.08.2018 and the acquisition proceedings are at an advanced stage of passing the Award.

At this juncture, learned counsel for the petitioners submits that the petitioners are owners of small extents of plots, and the respondent authorities are acquiring only a portion of the plots, thereby the balance portion left out for the petitioners would be very insignificant and not suitable for making any construction. It is also submitted that such small chunk of plot with insufficient/insignificant dimensions would either be useless or diminish in value and therefore, the respondent authorities are required to consider this aspect.

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 petitioners shall be at liberty to place necessary material before the land acquisition officer bringing to his notice specific details of the loss which they would suffer on account of acquisition of such partial portion of their respective lands, and the land acquisition officer shall take into consideration their claims, on a case by case basis, as compensation is required to be determined qua petitioners/land losers. It is also made clear that without passing the Award and paying the compensation as determined in the Award, as decided in Section 38 of the Act, the respondents shall not interfere or demolish any structures without complying with the requirement of paying compensation under Section 38 of the Act.

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

23rd April, 2019

KSM

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