

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.NOS.11635 AND 46816 OF 2018

COMMON ORDER

Since, the issue involved in both the writ petitions is common, they are being disposed of by this common order.

The petitioners in both these writ petitions claim to be the residents and owners of house properties in East Anand Bagh area, Malkajgiri, Medchal District. Government issued notification under Section 11(1) of Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013), (for short 'the Act'), on 17.05.2018, for acquiring the land for the purpose of construction of Railway Under Bridge (RUB), with service road from East Anandbagh to ZTS for free flow of traffic. The grievance of the petitioners is that the authorities require 100 feet wide service road from Anand Bagh to ZTC road, and the existing road in front of their houses is already 100 feet width, and hence no further land is required for the said purpose. Their grievance is that the respondent officials are not taking measurements from the central point of existing road and not maintaining equal distance on either side from the centre of the road, and this is affecting their properties and the property owners on the other side of the road, are being benefited. Therefore, they made representations ventilating their grievance. In W.P.No.46818 of 2018, the petitioners made representations on 11.06.2018, 11.07.2018, 18.07.2018 and 02.08.2018, and in W.P.No.11635 of 2018, petitioners made representations on 23.02.2018 and 17.03.2018. As the said representations have not been considered, the present writ petitions have been field.

In W.P.No.46816 of 2018, counter affidavits have been filed on behalf of respondents 2 and 6. In the counter affidavit filed by the Executive Engineer (R and B) Division Medchal, on behalf of 6th respondent, while refuting the allegations of the petitioners, it is stated that as per the request of affected property owners, the higher officials asked for detailed survey for change in alignment and accordingly detailed survey was carried out and all the boundaries of houses on both sides of road was taken and the alignment was finalized by Chief Engineer, R & B, D & P wing, so as to effect minimum properties. It is found that the houses constructed had not maintained proper road boundary line, and thus they have staggered boundaries. As the road is main road, proper curves have to be maintained for easy movement of vehicles. Hence, centre lines of individual property boundaries are marked, and smooth curves have been maintained and alignment is finalized. It is not feasible to take exact centre of two opposite properties at every location, as the properties are staggered. Road under bridge approach road and service road on either side of the RUB approaches will be provided equally i.e., 15.0 mts. from centre on either side after the effected properties are acquired by Town Planning Wing of GHMC and similarly service road of 3.75 mts. will be provided on both sides of RUB approaches, after the effected properties are acquired by Town Planning wing of GHMC. It is stated that the alignment was finalized by Chief Engineer, R & B D & P Wing, in a transparent manner and without any partiality to any person.

The Deputy Commissioner, Malkajgiri Circle, 28, Greater Hyderabad Municipal Corporation, also filed counter affidavit to the same effect.

Heard the learned counsel for the writ petitioners, Government Pleaders for Land Acquisition, Municipal Administration and Roads and Buildings, and Sri P.Bhasker, learned Standing Counsel for Railways and Sri Pasham Krishna Reddy, learned Standing Counsel for Municipal Corporation.

Learned Government Pleader for Land Acquisition submits that as on date, as per Section 15(1) of the Act, statement showing the gist of objections of the petitioners and others, have been submitted to Collector, Medchal – Malkajgiri District for issuance of orders under Section 15(2) of the Act. Further, the Assistant City Planner, Circle – 28 GHMC, has sent the revised sketch plans for the modified extents and requested to modify the extents vide their Lr.No.TPS/C28/GHM/2018 dated 14-11-2018, for which survey has to be conducted. He further submits that the Collector vide Lr.No.G2/2620/2017 dated 12-02-2019 returned Section 15(1) statement, with a direction to conduct joint inspection with the requisition department and submit the remarks. The joint inspection will be conducted soon after completion of ensuing elections, and the report will be submitted to the Collector for issuing orders under Section 15(2) and for issuing declaration under Section 19(1) of the Act. He further submits that the acquisition of the property of the petitioners and other properties will be strictly in accordance with law.

Having regard to the facts and circumstances of the case and the submissions of the respective counsel, as admittedly as on date, final decision has not been taken by the Collector and orders have not been passed

under Section 15(2) of the Act, and declaration under Section 19, is yet to be made; without expressing any opinion on merits, both the writ petitions are disposed of directing the District Collector, Medchal – Malkajgiri District, to consider the objections of the petitioners and other affected parties, and after affording them opportunity of hearing, pass appropriate orders in accordance with law.

It is made clear that without following due process of law, respondents shall not interfere with the possession and enjoyment of the petitioners over the subject property.

Interlocutory applications, pending, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM,J

DATE:09—04—2019

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