

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.19687 of 2019

ORDER:

Petitioners assert that they are the owners of various plots in Survey Nos.148-155 situated at Gopalnagar Cooperative House Building Society, Hydernagar Village, Kukatpally Mandal, Medchal District; that respondent No.2-Greater Hyderabad Municipal Commissioner, issued notices to them stating that the Corporation proposed to widen the road from Hafeezpet to KPHB Flyover and their plots would be affected in such process and compensation will be arranged therefor or issued Transferable Development Rights Certificates; that they are not willing to accept the compensation as per the schedules fixed by the Municipal Corporation; that in terms of Sections 146 and 147 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'), there is no consent given by them for acquisition of the property by agreement; that the procedure required to be followed in terms of Section 147 of the Act is by issuance of notification under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act 30 of 2013'); that as on date, no such proceedings are initiated by the respondent authorities; that the respondents are bound to follow the procedure prescribed in law particularly the provisions of Act 30 of 2013 and that in the aforesaid circumstances, they pray for a writ of mandamus.

Learned Standing Counsel for GHMC appearing for respondent Nos.2 to 4 submits that the respondent authorities will

not take any coercive steps against the petitioners without following due process of law and that if the petitioners are willing to accept the compensation on the negotiated terms, the respondent authorities would follow the procedure prescribed in law, particularly, the one under Section 147 of the Act read with Act 30 of 2013.

Having regard to the facts of the case and there being no dispute that the plots of the petitioners are required for road widening, in the event of there being any settlement arrived at in terms of Section 146 of the Act, the respondent authorities are bound to follow the procedure prescribed under Act 30 of 2013, as Section 38 of Act 30 of 2013 mandates payment of compensation to the property owners before possession can be taken.

In those circumstances, the writ petition is disposed of with the direction to the respondent authorities not to interfere with the peaceful possession and enjoyment of the petitioners over the property in question, without following the procedure prescribed under Section 146 of the Act and without complying with Section 38 of Act 30 of 2013. It is made clear that the entitlement of the compensation is subject to the right and title of the petitioners over the subject plots.

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

CHALLA KODANDA RAM, J

Dt:13.09.2019
kdl

