

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

I.A.No.1 of 2019 in I.A.No.1 of 2018 in W.P.No.29733 of 2018
and
W.P.No.29733 of 2018

COMMON ORDER:

The petitioners are owners of land in various survey numbers of Machapuram and Ookal Village, Geesukonda Mandal, Warangal Rural District. A notification under Section 11(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act – 30 of 2013 (for short, 'the Act'), was issued for acquiring the land of the petitioners along with other land for laying road from Gangadevipalli to Ramnagar.

2. Objections were filed by the petitioners under Section 15(2) of the Act, on 07.08.2018, before the 3rd respondent. In the said objections, it is the contention of the petitioners that there is already an existing cart track which was widened with 33 feet width and 4070 feet length with EGS funds and 70% of the metal road was laid; the rest is formation road for which Acs.3.03 guntas is adequate; there is already an existing R & B road with 60 feet width and 3250 feet length formed in an extent of Acs.4.20 guntas from Ookal Village stage to Sangem R & B Road upto Ramnagar cross; since there is already an existing Acs.3.03 guntas road from Gangadevipalli to Ookal, if another Acs.6.00 is added, a 100 feet road can be formed and R & B road from Ookal to Ramnagar was formed in an extent of Acs.4 ½ of land. It is the contention of the petitioners that the old road itself is sufficient and may be another Acs.10.00 is necessary, if it is to be widened. This would result in saving of Acs.18.00 guntas of land, which is further proposed to be acquired; when substantial funds have been expended by the State for laying the existing roads, there is no

justification for spending more money to acquire more land, thereby depriving the petitioners of their lands. It was therefore requested that the 3rd respondent withdraw the proposal for laying new road from Gangadevipalli to Ramnagar cross and save the petitioners and the public money.

3. In the last paragraph of the said objections filed under Section 15(2) of the Act, petitioners also mentioned that if the State does not wish to withdraw the new road proposal, it has to provide alternate land in the same road by taking petitioners' land, and if that is not possible, compensation of Rs.4.00 crores per acre be paid to the petitioners apart from providing employment opportunity to one family member as per their educational qualification.

4. Strangely, the said petition was disposed of on the same day, i.e., 07.08.2018, by the 3rd respondent simply referring to the last paragraph of the petitioners objections without reference to what the petitioners have stated in the previous one and half sheets of paper, by merely observing that the dues of the petitioners cannot be settled under the Act and compensation would be paid to land losers according to the rate fixed in the meeting with the District Collector.

5. It is also important to note that the petitioners had earlier approached this Court by filing W.P.No.23399 of 2018 specifically contending that they were sought to be dispossessed by the respondents without consideration of the objections filed by them under Section 15(2) of the Act and without giving a personal hearing and communicating the decision of the 3rd respondent to the petitioners.

6. On 13.07.2018, this Court granted a direction in I.A.No.1 of 2018 in W.P.No.23399 of 2018 to the 3rd respondent to consider the objections filed by to the petitioners under Section 15(2) of the Act after giving a personal hearing to the petitioners and also to communicate his decision to the petitioners thereon and then only proceed further in the matter.

7. In spite of specific direction contained in the above order to the 3rd respondent to consider the objections filed by the petitioner, as stated above, in the order passed on 07.08.2018, the 3rd respondent did not refer to the contentions of the petitioners regarding availability of alternate road at all and simply adverted to the last paragraph of their objection petition and rejected it.

8. Challenging this order/memo, dt.07.08.2018, as well as the consequential declaration dt.16.08.2018 published in the newspapers on 18.08.2018 under Section 19(1) of the Act, the instant writ petition has been filed.

9. On 27.08.2018 in I.A.No.1 of 2018 in W.P.No.29733 of 2018, this Court noticed that in the impugned memo dt.07.08.2018, the 3rd respondent did not deal with the objections raised by the petitioners in their representations dt.07.08.2018, in spite of a specific direction given by this Court in its order dt.13.07.2018 in I.A.No.1 of 2018 in W.P.No.23399 of 2018 and suspended the operation of the declaration issued under Section 19(1) of the Act dt.16.08.2018 published in newspapers on 18.08.2018, pending disposal of the writ petition.

10. Similarly, this Court also directed the Registry to issue notice to the 3rd respondent to show cause as to why proceedings for contempt of Court should not be initiated against him for willful disobedience of the

direction given by this Court in its order dt.13.07.2018 in I.A.No.1 of 2018 in W.P.No.23399 of 2018.

11. A *suo motu* Contempt Case has been registered as C.C.No.2386 of 2018.

12. I.A.No.1 of 2019 is filed by respondents 1 to 3 in the writ petition to vacate the said order.

13. In the vacate stay application, it is stated that the Zonal Manager, T.S.I.I.C. Limited, Warangal Zone, filed requisition before the Collector, Warangal (Rural), to acquire an extent of Acs.24.00 guntas of land for formation of approach road to Kakatiya Mega Textile Park in the limits of Machapur and Ookal Village of Geesugonda Mandal, Warangal (Rural) District, on 05.08.2017, under Sections 22 and 30A of the Act; that the State Government had accorded permissions to exempt the Kakatiya Mega Textile Park under Section 10-A of the Act from the application of provisions of Chapters-II and III of the Act; on 01.08.2017 preliminary notification under Section 11(1) of the Act was published in Eenadu News Paper Main Edition on 25.08.2018 and in the District Gazette on 23.08.2017, and it is stated that the petitioners did not file any objections within 60 days from the date of publication of such preliminary notification. It is stated that the property claimed by the petitioners is not part and parcel of the Textile Park Layout and it is asserted that the lands of the petitioners were acquired on the requisition given by the Zonal Manager, T.S.I.I.C. Limited, Warangal, only in order to provide a road of 100 feet width for easy commuting of heavy trucks and huge container trucks to cater to the needs and requirements of the Textile Park, where multinational countries are setting up factories shortly.

14. According to the counter, the existing roads are leading to the Textile Park Layout have a width of only 60 feet and pass between two villages and also pass between two residential houses and the road is full of narrow curves due to which maneuvering of heavy trucks is difficult and safety of villagers will also be jeopardized. It is stated that the lands of the petitioners were notified for laying of 100 feet road from Mariyapuram Junction to Ookal (Haveli). It is stated that the procedure under the Act would be followed and necessary compensation would be paid to the land losers after taking over vacant possession of the land from them.

15. Curiously, none of the facts stated in this counter-affidavit are mentioned in the order dt.07.08.2018 passed by the 3rd respondent. No explanation is forthcoming as to why in the order dt.07.08.2018, the 3rd respondent did not consider the earlier one and half page of the petitioners' objections, which it is his mandatory duty to consider under Section 15(2) of the Act. It is shocking that he did not even consider them in spite of specific order passed by this Court in I.A.No.1 of 2018 in W.P.No.23399 of 2018.

16. The concern raised by the petitioners regarding wastage of public money merited consideration by the 3rd respondent, but it unfortunate that the 3rd respondent did not bother to even read that portion of the objections filed by the petitioners and passed the order dt.07.08.2018. When the 3rd respondent in his counter affidavit in C.C.No.2386 of 2018 stated that he gave notice on 30.07.2018 to petitioners to receive the objections and provide personal hearing, he cannot take the plea that the objections filed on 07.08.2018 were filed belatedly.

17. Under these circumstances, I see no reason to vacate the order dt.27.08.2018 passed in I.A.No.1 of 2018 and accordingly, I.A.No.1 of 2019 is dismissed.

18. In view of the aforesaid reasons, the declaration dt.16.08.2018 published in the newspapers on 18.08.2018 under Section 19(2) of the Act, without considering the objections of the petitioners, is set aside and the 3rd respondent is directed to provide a fresh personal hearing and consider the representations/objections dt.07.08.2018 submitted by the petitioners by applying his mind to all the objections and then take a decision within six weeks from date of communication of this order and communicate the same to the petitioners.

19. W.P.No.29733 of 2018 is allowed accordingly.

20. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

M.S.RAMACHANDRA RAO, J

Dt:23.12.2019

GJ