

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.9412 of 2020

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the action of the 2nd and 3rd respondents in not following the procedure as contemplated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in acquiring the land of the petitioner located in Warangal bearing H.No.14-1-153/B and 14-1-154/B, MGM Road, Venu Rao Colony, Yellamma bazaar, as being illegal and against the principles of natural justice and; consequently direct the respondents to follow the due process of law in acquiring the petitioner's property, in the interest of justice.

02. Heard learned counsel for the petitioner who submits that without following the due process of law, the respondents are trying to dispossess the petitioner from his land, which is disputed by the learned Standing Counsel for the 3rd respondent-Corporation who stated that as on today no action is taken to acquire the land of the petitioner, but there are certain encroachments on the road which is being widened from the existing 80 feet into 150 feet road, and in case the respondent-Corporation requires the land in question, it will follow the due process of law. Learned counsel submits that as of now there is no proposal to acquire the land of the petitioner.

03. Inasmuch as it is stated by the learned Standing Counsel for the respondent-Corporation that no action is being taken to acquire the land of the petitioner the said submission is placed on record.

However, in the event the respondent-authorities require the land in question for road widening, the petitioner cannot be deprived of his land, except in accordance with the procedure established by law.

04. With the above directions writ petition is disposed of. Consequently, the miscellaneous petitions, if any, pending are also disposed of. There shall no order as to costs.

Dated: 30-06-2020
NRG

A.RAJASHEKER REDDY, J



THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY



WP No.9412 of 2020

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7. The decision of the appellate authority not advertng to any of the grounds of appeal raised by the respondent, and only reiteration of the order and reasons stated by the disciplinary authority, more particularly, as to the absence of the respondent to participate in the enquiry proceedings, not being a speaking order is in violation of principles of natural justice. Merely on the ground of absence of the respondent to participate in the enquiry, the enquiry officer cannot hold the charges proved, but the enquiry officer has to arrive at a finding based on material available. Relying on the decision of the Supreme Court in **ALLAHABAD BANK vs. KRISHNA NARAYAN TEWARI**¹, the learned single Judge in exercise of his discretion chose not to remand the matter for conducting proceedings afresh as the subject matter of enquiry pertains of the year 2000 and by now it is nearly 2 decades past. Such exercise of discretion by the learned single Judge not to remind the matter, at this length of time is also rational and traceable to formidable reason. In **ROMA SONKAR vs. MADHYA PRADESH STATE PUBLIC SERVICE COMMISSION**,² expressing 'serious reservation' about a Division Bench of a High Court remitting a matter to single

¹ 2017 (2) SCC 308

² 2018 SCC OnLine SC 956

bench for moulding relief, the Supreme Court has observed that the single Judge is not subordinate to the Division Bench. The Supreme Court at para 3 of the judgment observed thus:-

“We have very serious reservations whether the Division Bench in an intra court appeal could have remitted a writ petition in the matter of moulding the relief. It is the exercise of jurisdiction of the High Court under Article 226 of the Constitution of India. The learned single Judge, as well as the Division Bench exercised the same jurisdiction. Only to avoid inconvenience to the litigants, another tier of screening by the Division Bench is provided in terms of the power of the High Court, but that does not mean that the single Judge is subordinate to the Division Bench.”

8. The discretion exercised by the learned single Judge in exercise of jurisdiction under Article 226 of the Constitution, cannot be interfered with except in compelling circumstances and there is no reason to take a view than the view taken by the learned single Judge in the facts and circumstances of the case, and therefore, the discretion exercised cannot be unfolded in intra-Court appeal filed under Clause 15 of the Letters Patent Act. In the result, the appeal is devoid of merits and it is accordingly dismissed. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed. There shall be no order as to costs.

THOTTATHIL B.

RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

Dated: 30-01-2019

NRG

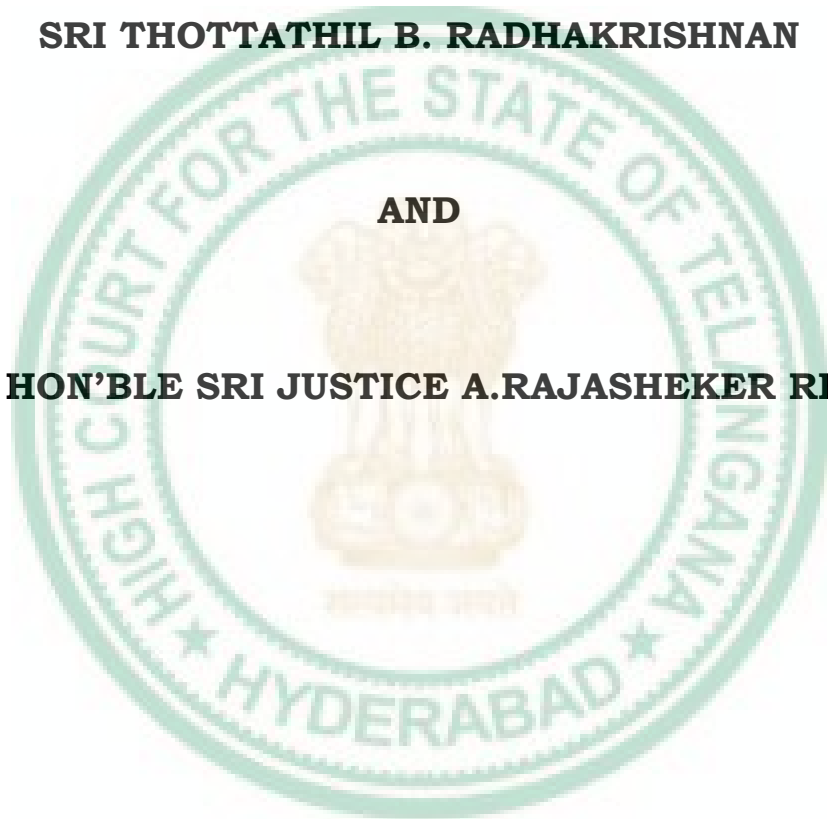


THE HON'BLE THE CHIEF JUSTICE

SRI THOTTATHIL B. RADHAKRISHNAN

AND

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY





WRIT APPEAL No.45 of 2019

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30-01-2019

NRG

