

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 10053 of 2020

O R D E R:

This Writ Petition is filed seeking a *mandamus* to declare the action of the respondents in widening the road from 30 to 40 feet affecting the premises bearing No. 1-4-366 situated at Saraswathinagar, New Bus Stand Area, Bodhan, without issuing notification or following the proceedings under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act') as illegal and arbitrary.

Heard learned counsel for the petitioner and learned Standing Counsel for the respondent Municipality - Sri N. Praveen Kumar.

Considering the nature of relief, which the petitioner seeks, and taking into consideration the averments along with the documents filed, the Writ Petition is disposed of at the admission stage.

The specific assertion of the petitioner is that he is the owner of the subject premises and that on earlier occasion, portion of his property was acquired, but no compensation was paid. It is his complaint that on 01.07.2020, the subordinates of the 3rd respondent illegally demolished the staircase of three mulgies situated towards Southern side of the property and further directed him to remove the existing structures up to the marking area within seven days.

The learned Standing counsel would submit that what all appeared to have been done at this point of time is removal of staircase which was encroached on to the road. However, he would submit that if the property of the petitioner is required for the purpose of road widening, due process will be followed.

Having regard to the respective submissions and having perused the sale deed which *prima facie* establishes title and right of the petitioner over the property, and considering the fact that no property of an individual can be acquired without payment of compensation, as otherwise, the same would be violative of Article 300-A of the Constitution of India, it is made clear that without acquisition of property and without payment of compensation, as arrived at either through negotiations or by following the procedure prescribed under the 2013 Act, no demolition whatsoever shall be taken up and no work shall be undertaken by the Corporation on the property of the petitioner.

As the petitioner asserts that on earlier occasion as well, portion of his property was acquired, but no proceedings were initiated, if the acquisition of the property is true, the respondent authorities shall initiate necessary proceedings under the 2013 Act and determine the compensation and pay the same. Till such time the compensation is paid, either through negotiations or under the provisions of the 2013 Act, more particularly, in terms of Section 38, no work shall be undertaken in the subject property.

The Writ Petition is accordingly, disposed of. No costs.

As a sequel, miscellaneous petitions, if any pending in these writ petitions, shall stand closed.

10th July, 2020

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CHALLA KODANDA RAM, J

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