



W.P.No.26714 of 2016

M.DHANDAPANI,J.

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This matter is listed under the caption “For Clarification” at the instance of the learned counsel for the petitioners.

2. It is submitted by the learned counsel for the petitioners that though this Court vide order dated 12.07.2022 had passed an affirmative order to the respondents to consider the request of the petitioners for retention of the portion of land on which they had put up their residential premises, however, the order reflects that only a direction has been given to the respondents to consider the representation of the petitioners. Therefore, he pleads this Court for necessary clarification.

3. On the above, this Court heard the learned Addl. Government Pleader appearing for the respondents.

4. A perusal of the order dated 12.7.2022 reveals that in para-6 of the said order, mere direction has been given to the respondents to consider the representation and pass orders on the same in accordance within a prescribed period. However, in the preceding portion of the order, this Court had recorded that request was made by the petitioners for retention of the portion of the land in which they had put up residential construction and that the petitioners are ready and willing to surrender the balance portion of the land in favour of CMDA. In such a backdrop, necessarily, this Court had issued an affirmative direction, however, inadvertently, the regular direction has been typed. In such circumstances, paragraphs 6 and 7 of the order dated 12.7.2022 shall stand recalled and the following shall stand substituted in the said place :-

“6. From the materials available on record as also the submission of the learned counsel for the petitioners, it transpires that in a portion of the land, which is sought to be acquired, the



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petitioners have put up their residential construction and are residing in the said premises. The aforesaid fact is not disputed by the learned Addl. Government Pleader appearing for the respondents.

7. It is to be borne in mind that the reason for acquisition of lands, more especially in the present case, is mainly for the purpose of providing house sites to houseless persons. The petitioners are the land loser, but they cannot be made loser of even their residential accommodation. When it is the yeomen object of the State to provide shelter for each and every needy, who do not have a roof of their own, can the very State pull the person out of their shelter and the roof which protect them and throw them out on the streets for providing the same roof to some other individual. Definitely that is not the intent of the acquisition and cannot be the intent of the acquisition. When persons, who are without a roof of their own are to be provided with shelter, equally the roof of an individual cannot be dismantled for the purpose of providing shelter to the other.

8. In the case on hand, the petitioners are not only land loser, but by the act of the respondents, the very shelter which they have put up by striving hard, would be blown to smithereens, if they are deprived of the said piece of land. Therefore, definitely, this Court is duty bound to render substantial justice by safeguarding the shelter which the petitioners have made of their own by toiling hard. Further, it is also to be borne in mind that the petitioners are not objecting to the acquisition of the other portion of their lands, but for the portion in which they have put up their residential construction. In fact, the petitioners, though sought for withdrawal of the acquisition proceedings, which was rejected, now only wants to save their shelter from being taken away from them. Definitely,



the respondents cannot have any quarrel to acceding to their request for permitting them to retain the said portion of land.

9. In fact, the learned counsel appearing for the petitioners sought the indulgence of this Court to permit the petitioners to make a representation for retention of the said portion of land on which they have put up their residential construction and for a direction by this Court to the authorities to consider the said request affirmatively.

10. This Court, in the light of the circumstances aforesaid, is of the considered view that the plea made on behalf of the petitioners is just and reasonable and only if such a direction is issued, it would be rendering of substantial justice and any other direction than the one aforesaid would be travesty of justice.

11. Accordingly, for the reason aforesaid, this Court direct the petitioners to submit a representation, before the 1st respondent seeking to retain only that portion of the land in which they have put up their residential construction along with their willingness to part with the remaining portion of the lands by surrendering the same to the Government, within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the 1st respondent is directed to pass orders on the same in the light of the observations made by this Court in paragraphs 6 to 8 above for permitting the retention of the residential premises of the petitioners within a period of twelve weeks therefrom. Till such time, the possession of the petitioners shall not be disturbed.

12. This writ petition is disposed of with the aforesaid observations and directions. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.”



5. Registry is directed to carry out the aforesaid corrections in the order dated 12.07.2022 and issue a fresh order copy to the parties.

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