

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION No.20823 of 2023

Between:-

Srikaram Mouli Vinod Kumar

....

Petitioner

And

Union of India, Rep.by Secretary,
Ministry of Road Transport & Highways.

...

Respondents

Counsel for the Petitioners : Mr. Kishore Kumar Dhodla

Counsel for the Respondents : Government Pleader
for Land Acquisition

ORDER:

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Land Acquisition, who placed a copy of the instructions dated 14.08.2023, for perusal of this Court.

2. The Writ Petition is filed seeking to declare the action of the respondents 3 and 5 in entering into the subject matter property situated in Survey Nos.92/1A1C2 and 92/1B1A2B at Pothapolu Village, Madanapalli Mandal of Annamaiah District, without paying the compensation and without following due process of Law, as illegal, arbitrary etc., violative of Articles 14, 21 & 300-A of the Constitution of India, as also contrary to Sections 26, 27, 28, 29 & 30 of RFCTLARR Act 2013(for short 'the Act, 2013) and for a consequential direction to respondent No.5 to take the previous awards and the market value into consideration for the acquired portion of the land in the process of laying 4-lane Maintenance, Management and operation of NH-71 (Madanapalli to Pileru section) in Pothapolu village.

3. The learned counsel for the petitioner advanced arguments to the effect that the petitioner purchased the subject matter property of an extent of Ac.3.05 cents at Pothapolu Village, Madanapalli Mandal for valuable consideration @ Rs.42,00,000 per acre and that from the date of purchase, the petitioner is in peaceful possession and enjoyment of the same. He submits that the petitioner requested for conversion of agricultural land into non-agricultural land by paying the requisite charges *vide* Challana dated 24.09.2021 and 12.11.2021 through online. He submits that while things stood thus, the 2nd respondent issued a Notification of land acquisition on 22.03.2022 in Andhra Jyothi, for the purpose of 4-lane Maintenance and Management and Operation of National High Way in the stretch of land from 0+000 km. to 55+900 km. of NH-71(Madanapalli to Pileru section) in Pothapolu Village, Madanapalli Mandal of Annamaiah District and the petitioner's land in Survey Nos.92/1A and 92/1B was notified and sub-divided as 92/1A1C and 92/1B1A2 and as per 3D after sub-division, the same numbers were notified as 92/1A1C2 and 92/1B1A2B and the proposed land for acquisition in the said survey numbers is 2387.73 square meters(0.59 acres) and 3278.07 square meters(0.81 acres). He submits that the petitioner made a representation to the 5th respondent on 21.12.2022 and requested to consider the value as per the Sale Deed i.e., Rs.42 lakhs per acre and determine the value of the land notified for the purpose of laying 4-lane Maintenance, Management and Operation of National Highway-71 (NH-71). He submits that without considering the

petitioner's request, without paying the compensation, the authorities concerned are proceeding with the landscaping in the petitioner's property. He also submits that with great difficulty, the petitioner could resist the respondents from proceeding with their operations. He submits that the action on the part of the respondents in proceeding with the 4-lane Maintenance, Management and Operation of National Highway-71, without paying the compensation to the petitioner is arbitrary and contrary to the provisions of the Act, 2013. Making the said submissions, the learned counsel seeks appropriate reliefs including the suspension of the works undertaken by the respondents.

4. The learned Assistant Government Pleader for Land Acquisition, on the other hand, referring to the instructions placed before this Court submits that the 5th respondent had already passed an Award after following due process/procedure as contemplated under National Highways Act on 15.06.2023. She further submits that in the present case, Section 3-A Gazette Notification was published on 14.03.2022 and the sales during the period from 15.09.2019 to 14.03.2022 have been taken into consideration for fixation of market value. She submits that in view of passing of the Award, if the petitioner has any grievance with regard to the compensation, the remedies under the provisions of National Highways Act have to be availed. Referring to the said instructions, the learned Assistant Government Pleader also states that if the petitioner produces the

necessary documents, his claim for the compensation in terms of the Award dated 15.06.2023 would be examined and paid.

5. Though the learned counsel for the petitioner raised several contentions, in view of the submission made by the learned Assistant Government Pleader that if the petitioner approaches the concerned authority i.e., 5th respondent with the relevant documents, compensation would be paid on examination of the petitioner's claim, states that the petitioner would adopt the said course of action, but no prejudice shall be caused to the rights of the petitioner to seek enhancement, if the compensation Award is not adequate.

6. Considering the said submissions, this Court instead of keeping the writ petition pending, deems it appropriate to dispose of the Writ Petition, leaving it open to the petitioner to approach the 5th respondent for payment of compensation by providing relevant documents. The petitioner may avail the remedy under Section 3G(5) of the National Highways Act before the 4th respondent, in the event of seeking enhancement of the compensation.

7. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel, all pending applications shall stand closed.

JUSTICE NINALA JAYASURYA

BLV

Date: 16.08.2023

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION No.20823 of 2023

Date: 16.08.2023

BLV