
(2016) 11 AP CK 0076

In the Andhra Pradesh High Court

Case No : Writ Petition (Pil) No. 137 of 2016

Marella Marithi Prasada Rao

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 01-11-2016

Acts Referred:

Citation : (2017) 2 AndhLD 704

Hon'ble Judges : Ramesh Ranganathan, ACJ. and Sri A. Shankar Narayana, J.

Bench : Division Bench

Advocate : S. Narendranath Reddy, Advocate, for the Petitioner; B. Narayan Reddy , A.S.G, for the Respondent No. 1; S.S. Varma (SC for NHAI), for the Respondent Nos. 2 and 3; Government Pleader For Land Acquisition, for the Respondent No. 4

Final Decision : Disposed Off

Judgement

Ramesh Ranganathan, A.C.J.—The relief sought for in this writ petition is to declare the action of the respondents, more particularly respondent Nos. 3 to 5, in proceeding with the proposed alignment of the road, without properly considering the petitioner's objections and without making further enquiry under Section 3C(2) of the National Highways Act, 1956 (for short "the Act") for building/widening the two lane to a four lane road, maintenance, management and operation of National Highway No. 214 (NH-216) in the stretch of land from K.M. 195.355 to K.M. 254.672 (Chirala to Ongole Section) in Prakasam District as illegal, arbitrary, violative of the Act, against public policy, and as causing loss to the public exchequer. A consequential direction is sought to the respondents to visit the fields at the proposed alignment, and consider whether the petitioner's objections are genuine, and the suggestions are feasible, by submitting a report to this Court on the change of alignment.

2. The petitioner claims to be an agriculturist, a permanent resident of Yedugundlapadu Village, Maddipadu Mandal, Prakasam District, and to be a public spirited person espousing the cause of farmers in the said village as well

as for the welfare of the nation by saving huge amounts to the public exchequer.

3. The Ministry of Roads, Transport and Highways, Government of India intends to widen the two lane stretch from Chirala to Ongole into a four lane highway. A notification dated 24.7.2015 was issued to acquire the land, which was published in the daily newspapers on 31.7.2015 inviting objections under Section 3(C)(1) of the Act. The petitioner claims to have submitted a representation on 17.8.2015 to the Ministry of Roads, Transport and Highways, and to have again submitted another representation along with other villagers on 20.8.2015 to the competent authority, wherein he stated that the proposed alignment obstructed the natural flow of water, thereby resulting in stagnation of water in the agriculture fields; it was not viable as per the cost and benefit principle; there was an existing donka/cart way; there was no need to acquire more agricultural fields if the alignment was changed; and the distance would also be reduced thereby.

4. Thereafter, another notification was issued on 24.7.2015, which was published on 1.6.2016 in the daily newspapers for acquiring some more lands for the proposed alignment of the road to which also the petitioner filed his objections on 20.5.2016. The petitioner also claims to have made an application, under the Right to Information Act, on 22.4.2016 seeking certain information, which was not made available to him.

5. It is the petitioner's case that the value of the land in the area is Rs.1.5 crores per acre; all the owners of the land are small farmers eking out their livelihood through agriculture; if their lands are acquired, not only will they be deprived once and for all, but they will also be put to great hardship; if his proposal is accepted, more than 12.00 acres of land would be freely available to the Government, as the donka-cart passage, i.e., katcha road between the villages, could be put to use, the distance would be reduced, and around Rs. 70.00 crores would be saved in the process.

6. Section 3A of the Act confers power on the Central Government to acquire lands and, under Sub-section (1) thereof, where the Central Government is satisfied that, for a public purpose, any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in the Official Gazette, declare its intention to acquire such land. While Section 3B confers power on the Central Government to enter on the land proposed to be acquired, and to cause a survey thereupon, Section 3C deals with hearing of objections. Under Sub-section (1) thereof, any person interested in the land may, within twenty one days from the date of publication of the notification under sub-section (1) of Section 3A, object to the use of the land for the purpose or purposes mentioned in that sub-section.

7. Section 3C(2) stipulates that every objection, under Section 3C(1), shall be made to the competent authority in writing and shall set out the grounds thereof, and the competent authority shall give the objector an opportunity of being

heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as he thinks necessary, by order, either allow or disallow the objections. The right to submit objections to the proposed acquisition, under Section 3C(1) of the Act, is conferred on a person interested in the land, i.e the person whose lands are sought to be acquired. On an objection being made by such a person, Section 3C(2) requires the competent authority to consider them, give the objector an opportunity of being heard either in person or by a legal practitioner, to make such further enquiry as he thinks necessary, and thereafter either allow or disallow the objection. The person interested in the land has not only the right to submit his written objections, but also the right to an oral hearing, either in person or through a legal practitioner. During the hearing of the objections, under Section 3C(1) of the Act, the person, whose lands are sought to be acquired, would be entitled to put forth all such contentions as are available to him in law.

8. When we asked Sri S. Narendranath Reddy, learned counsel for the petitioner, whether the petitioner's lands were being acquired, learned counsel would fairly state that there is no averment in the Writ affidavit in this regard. While any person whose lands are being acquired would undoubtedly have a right under Section 3C of the Act to put forth his objections thereto, and to have such objections, considered by the competent authority, the question which necessitates examination in this Writ Petition is whether any person, whose lands are not being acquired for the purpose of road-widening, can invoke the jurisdiction of this Court seeking re-alignment of the road proposed to be expanded by the National Highways Authority.

9. While exercising jurisdiction under Article 226 of the Constitution of India, this Court would not sit in appeal over the decisions of the executive, more so where examination, of the technical matters in issue, require expertise of a high order. As this Court lacks the required expertise, to decide questions such as whether the existing alignment is proper, or an alternative alignment would serve larger public interest, it must necessarily defer to the wisdom of the experts in the field, and not take upon itself the task of determining whether a road should be laid in one particular alignment or another. While loss to the public exchequer is undoubtedly one of the considerations which the authorities are bound to bear in mind, while deciding on the nature of alignment of a road, there are several other factors which may also weigh in their decision to prescribe a particular alignment for the proposed national highway.

10. We must express our inability to agree with the submission of the learned counsel for the petitioner that we should undertake the task of determining whether the existing alignment should be continued or not, as we lack the required expertise. While we see no reason to sit in judgment over the decision of the respondents in prescribing a particular road alignment, we cannot also ignore the petitioner's claims that the alternate alignment, through the Donka, would save public exchequer of Rs.70.00 crores. We have no reason to doubt

that these aspects shall be borne in mind by the authorities concerned in taking a decision whether the proposed alignment should be continued or changed. Any decision, which the respondents may finally take in this regard, can only be after the objections of those, whose lands are being acquired under the Act, are considered in accordance with Section 3C of the Act.

11. Subject to the above observations, the writ petition fails, and is, accordingly dismissed. The miscellaneous petitions pending, if any, shall also stand closed. There shall be no order as to costs.