

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

W.P.No.29023 of 2019

ORDER :

Heard learned counsel for the petitioners and learned Standing Counsel for GHMC and perused the record.

2. The Respondent Corporation issued notice under Section 146 of HMC Act, 1955 calling upon the owners of the property mentioned therein to give their consent for the proposed widening to 80'-0" wide road from Kistamma Enclave towards Suchitra Junction, Alwal.

3. According to learned counsel for petitioners, petitioners are not willing to part with their property and give consent under Section 146 of HMC Act. Learned counsel further submits that the petitioners have made a counter claim for changing the alignment of the road.

4. Under Section 146 of HMC Act, it is permissible for the Municipal Corporation to negotiate for taking possession of private lands for public purpose without resorting to regular land acquisition procedure subject to willingness of owners of the property. Under this provision, the Municipal Corporation cannot compel the owners to part with their property and it is always open to the owners to accept or refuse such negotiations conducted under Section 146 of HMC Act. If the owners are not willing to part with their properties for public purpose, it is for the Municipal Corporation to resort to compulsory acquisition under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'new Act') and at that stage, petitioners will have right to file their objections, if any. The question

of making counter claim or asking for change of alignment in response to the notice issued under Section 146 does not arise.

5. With the above observations, the writ petition is disposed of. As a sequel, the miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

Date: 31.12.2019
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