

10. 02.07.2019

Heard.

The petitioner has private land bearing Plot No.129/4913, appertaining to Khata No.725/2529 in Mouza-Kalarahanga, Thana-New Capital No.16, Tahasil-Bhubaneswar.

Learned counsel for the B.D.A. submits that the aforesaid land along with other private lands have been reserved for construction of the road in the Vision plan 2030 and Section 19 of the Orissa Development Authorities Act, 1982 prohibits approval of building plan in respect of the aforesaid land.

Learned counsel for the petitioner submits that the petitioner is suffering from a chronic kidney ailment, he wants to utilize the land for construction of a house and he is ready to forgo the land in acquisition if the same is acquired for the purpose of road in future.

Section 121 of the Orissa Development Authorities Act, 1982 reads as follows:

“121. Development plans to stand modified in certain cases-(1) Where any land situated in a development area is required by the development plan to be kept as unbuilt upon or is designated in any, such plan for any public purpose or subject to compulsory acquisition, then, if at the expiration of ten years from the date of coming into, operation of the

comprehensive development plan under Section 13, the land is not compulsorily acquired or purchased, by the State Government or the Authority, as the case may be, the owner of the land may serve on the State Government a notice requiring his interest in the land to be so acquired.

(2) If the State Government fails to commence proceedings for the acquisition of the land under the Land Acquisition Act, 1894 (Act No.1 of 1894) within six months from the date of receipt of the notice under Sub-section (1) the land, immediately after the expiration of the said six months, shall be deemed to be not required to be kept as unbuilt upon or for public purpose or subject to compulsory acquisition, and shall be available to the owner, subject to the provisions of Chapter V, for development for such uses as is permissible in case of adjacent land in the relevant development plan.”

From the aforesaid provisions, it is clear that after the expiration of ten years from the approval of the comprehensive plan by the Government, the petitioner shall have his own interest over the land.

Learned counsel for the B.D.A. submits that in the meantime more than 9 years have already expired from the date of approval of the comprehensive plan by the Government on 6.04.2010 as indicated under Annexure-C to the counter affidavit.

Regard being had to all such facts and submissions, the petitioner may wait till 10.04.2020

and move the authority in accordance with Section 121 of the Orissa Development Authorities Act, 1982 for approval of the building plan over the aforesaid land.

With the aforesaid observation, the writ petition is disposed of.

Urgent certified copy of this order be granted as per rules.

.....
C.R. Dash, J.

Murmu