

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.26649 of 2009

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the action of the respondents in not paying the compensation to the petitioner in respect of petitioner's property in Sy.No.1066 admeasuring Ac.0-11 guntas of Bhongir Village and Mandal, Nalgonda District as illegal, arbitrary and violative of principles of natural justice.

2. Heard Sri K.Buchi Babu, learned counsel for petitioner and the learned Government Pleader for the State apart from perusing the material available on record.

3. The case of the petitioner, as per the affidavit filed in support of the Writ Petition, is as under.

4. The petitioner is the absolute owner of the land in Sy.No.1066 admeasuring Ac.0-11 guntas of Bhongir Village and Mandal, Nalgonda District, which he acquired by virtue of a simple sale deed on 16.3.1978 from one Yada Chandrapaul. The Revenue Divisional Officer, by virtue of proceedings No.D/2265/1981 dated 19.3.1982 impounded the said document and the petitioner paid the amount vide challan dated 12.3.1982. The petitioner herein also paid the validation fee and the name of the petitioner was also mutated in the revenue records. The grievance of the petitioner, in the present Writ Petition is that the respondents herein without any manner of right and without invoking the provisions of the Land Acquisition Act, took possession of the property for the purpose of construction of hospital in the month of November, 1995 and that the respondents constructed the hospital in the said land without paying any compensation. This Court, on 5.12.2009 issued Rule Nisi.

5. Responding to the rule nisi issued by this Court, a counter affidavit is filed on behalf of respondents 3 to 5 stating that on receipt of a legal

notice issued by the counsel on 22.8.2009, the disputed land was got surveyed and demarcated by the Mandal Surveyor, Bhongir and the Tahsildar, Bhongir vide Lr.No.A/9024/99 dated 3.10.2009 informed that an extent of Ac.0.11 guntas in Sy.No.1066 of Bhongir Village is covered by Area Hospital, Bhongir. The said counter affidavit deposed by the Revenue Divisional Officer, Bhongir further states that no requisition has been received by the department, as such no land acquisition proceedings have been initiated and that in the absence of any requisition, the Land Acquisition Officer has no jurisdiction to initiate proceedings under the Land Acquisition Act.

6. So far no counter affidavit is filed either on behalf of 2nd respondent or by 7th respondent resisting the Writ Petition.

7. As per the material available on record including the counter affidavit filed on behalf of respondents 3 to 5, it is very much clear that there is an Area Hospital constricted by the Medical and Health Department in the subject land. If that being so, there is absolutely no justification on the part of the Medical and Health Department in not paying compensation to the petitioner herein despite taking possession of the property and constructing hospital therein.

8. Right to property is a constitutional right as enshrined under Article 300-A of the Constitution which, in clear and unequivocal terms, mandates that no citizen shall be deprived of his/her property except in accordance with the procedure established by law. In the instant case, the material on record discloses that despite occupying the property held by private individual, no steps have been taken so far by the authorities in the direction of paying compensation to the affected person. This attitude on the part of the authorities, in the considered opinion of this Court, is highly unreasonable, preposterous and reprehensible.

9. For the aforesaid reasons and having regard to the averments in the counter affidavit filed on behalf of respondents 3 to 5, this Writ Petition is

disposed of, directing the respondents herein to take immediate action for payment of compensation to the petitioner herein by pressing into service the provisions of relevant legislation for acquisition. The entire exercise in this regard including payment of compensation to the petitioner herein shall be finalised within a period of three months from the date of receipt of this order. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 12.6.2014
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12.6.2014