

THE HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.21856 OF 2008

ORDER:

With the consent of the learned counsel for parties, the writ petition is taken up for disposal.

2. The present writ petition is filed to declare the action of the respondents in cutting and removing the yielding coconut trees of the petitioners without notice or initiating land acquisition proceedings for laying the road between Katrenipadu Lanka and Mulikipally, Razole Mandal, East Godavari District, as illegal and violative of Article 300-A of the Constitution of India.

3. The petitioners claim to be absolute owners and possessors of land in Survey Nos. 118/15, 118/9, 118/8 and 187/1 of Katrenipadu Lanka Village, Razole Mandal, East Godavari District. The survey numbers are located adjacent to the village road leading from Katrenipadu Lanka to Mulikipally.

4. The case of the petitioners is that they have raised coconut garden in the land covered by these survey numbers and the petitioners are primarily dependent on the income derived from these coconut trees. The fourth respondent/Executive Engineer, (Panchayat Raj), Amalapuram, East Godavari District, under the supervisory control of the District Collector, East Godavari/first respondent, laid road between the points referred to above under Prime Minister Grameena Sadak Yojna. Through the said road

widening, the fourth respondent laid a black metal road. The case of the petitioners is that the respondents have cut and carried away from site the coconut trees and later on the land belonging to the petitioners is also included for the purpose of laying the road. The legal grievance of the petitioners is that the cutting of trees and acquisition of petitioners' land is without notice and payment of compensation.

5. This Court, in the order passed in Contempt Case No. 1785 of 2008, ensured payment of compensation for the loss of coconut trees. In view of the payment of compensation towards loss of coconut trees, the issue requiring attention of this Court is concerning the alleged acquisition of petitioners' land in the above survey numbers without initiating land acquisition proceedings.

6. The respondents have filed counter affidavit, firstly contending that the land which the petitioners are claiming ownership is not at all affected by acquisition and that the road is laid only on the land belonging to Government which is a kalva poramboke. The dispute between the parties is one of a disputed question of fact.

7. With a view to resolve the controversy, I am of the opinion that the petitioners be given four (04) weeks time to represent to respondent Nos.1,2,4 and 5 on the alleged deprivation of their property rights in the survey numbers referred to above. Along with the representation, the petitioners shall also enclose the supporting documents of title, field map, etc. On receipt of such representation, it shall be the responsibility of respondent Nos. 4 and 5 to conduct survey with reference to village map and field sketch of respective survey numbers, find out whether in the road

formation the land of the petitioners is affected or not. If in the survey it transpires that the proprietary right of the petitioners is affected in the road laying/black topping, the respondents shall initiate land acquisition proceedings and the petitioners are paid compensation to the extent of land they are deprived of title and possession. The said exercise shall be completed within a period of two (02) months from the date of receipt of representation.

8. The writ petition is ordered accordingly. There shall be no order as to costs.

9. Miscellaneous Petitions, if any, pending, shall also stand dismissed.

S.V. BHATT, J

26.12.2013.
vhb