

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.31226 of 2012

ORDER:

This writ petition is filed seeking to issue a writ of *Mandamus* declaring the order, dated 02.04.2012, passed by respondent No.1 vide letter No.25783/12/2011-2 and consequential order, dated 20.6.2012, of respondent No.2 in Rc.No.E2-79/11 confirming respondent No.2's order, dated 24.6.2011, as illegal and arbitrary, and consequently, to direct the respondents to delete the proposed 60'.0" road on eastern and northern side of existing M/s.Venkateswara Cotton Mills, Vengalayapalem Village in S.No.1053 of Ankireddypalem Village, Guntur District, in the Master Plan, as there are alternative link roads within one kilometre of either side of proposed 60.0' road, as preparation of Master Plan is without due process of law.

2. Case of the petitioner is that the petitioner purchased lands in the above survey number through registered sale deeds and when the petitioner approached respondent No.2 on 11.10.2010 for according permission to construct additional AC sheet roof ginning halls, sheds and for permission for construction of RCC structure of ground and first floor of office room and also for the purpose of installing new machinery with additional H.P., he was informed by the office of respondent No.2 that the property which the petitioner has purchased from one G.Rajya Lakshmi by way of registered sale deed to an extent of Ac.0.94 cents is now used as an approach road and as an ingress and egress to the mill has been included in the Master plan of the respondent Authority. The petitioner immediately made a representation, dated 07.02.2011, to respondent No.2 authority requesting it to delete the same from the master plan in S.No.1053 of Ankireddypalem. As no action has been taken, petitioner filed

W.P.No.13228 of 2011 and the same was disposed of on 29.4.2011 with a direction to respondent No.2 to dispose of the representation, dated 07.02.2011, of the petitioner within a period of four (4) weeks. In pursuance of the same, the impugned proceedings in Rc.No.E2-79/11, dated 20.6.2012, of respondent No.2 and letter No.25783/12/2011-2, dated 02.04.2012, of respondent No.1 are issued rejecting the case of the petitioner for deletion of the said road from the master plan. Aggrieved by the same, the present writ petition is filed.

3. Learned counsel for the petitioner – Mr.T.S.Rayalu submits that though there are sufficient number of roads, still, the respondent Authority has included the land of the petitioner in the master plan for laying of new 60'.0" road and in fact, there is no necessity for making construction of another road, and though this Court has directed the respondent Authority to consider the representation, dated 07.02.2011, of the petitioner in W.P.No.13228 of 2011, the same has not been considered in proper perspective and without properly considering the same, the impugned proceedings were issued. He also submits that though in the counter-affidavit, the respondent Authority has stated that notification was issued for framing zonal development plan, the same was not prepared as per the procedure followed and hence, prays to allow the writ petition.

4. Learned Standing Counsel appearing for the respondent Authority – Smt K.Mani Deepika submits that as per Section 13(1) of the A.P. Urban Areas (Development) Act, 1975, Government has included Ankireddypalem Village in V.C.T.M.Urban region in G.O.Ms.No.695 Municipal Administration, dated 09.11.1977, and after inviting objections, the zonal development plan was prepared and the same was approved by the Government and hence, prays to dismiss the writ petition.

5. The petitioner made a representation on 07.02.2011 to the

respondent Authority bringing to its notice that the land in question is the private land of the petitioner and therefore, the same cannot be shown in the master plan as public road. This Court directed the respondent Authority to consider the petitioner's representation, dated 07.02.2011, and pass appropriate orders in accordance with law. The authorities considered the representation of the petitioner and passed the impugned orders. Now, whether the notice was issued while preparing zonal development plan or not is not much of consequence since petitioner's representation was already considered and authorities passed the impugned orders.

6. Other aspect of the case is whether 60'.0" feet road is required for laying the new road or not. It is for the expert bodies to consider the same depending upon the traffic load and also taking into consideration the future requirements. The case of the petitioner was also considered and this Court cannot go into that aspect as to whether the 60'.0" feet road is required to be included in the master plan or not. This Court cannot go into that aspect by exercising the powers under Article 226 of the Constitution of India.

7. In view of the above facts and circumstances, I do not see any merit in the writ petition and the same is, accordingly, dismissed. As far as the payment of compensation and other things are concerned, as and when the said road is being laid, it is for the respondent Authority to consider the same in accordance with law. There shall be no order as to costs.

8. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.RAJASHEKER REDDY

Date: 24.8.2015
AMD

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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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