

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.11194 OF 2010

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner to declare the action of the respondents 1 to 5 in seeking to lay a road connecting Mukteswaram to Guntupally village through the land of the petitioner in Sy.Nos.148/2, 148/3 and 149 of Chennupally village, Ballikurava Mandal, Prakasam District, without his consent as required under G.O.Ms.No.231, Panchayat Raj and Rural Development (RD.II) Department, dated 24.07.2009, as illegal and arbitrary and consequently direct the respondents 1 to 5 not to lay any road through the aforesaid land of the petitioner.

The case of the petitioner is that he is the absolute owner and possessor of an extent of Acs.12.21 cents, Acs.4.64 cents and Acs.5.51 cents in Sy.Nos.148/2, 148/3 and 149 of Chennupally village, Ballikurava Mandal, Prakasam District and the said lands are valuable wet lands. In the year 2004, when an attempt was made by the Mandal Praja Parishad of Ballikurava Mnadal to lay a road from Mukteswaram to Guntupally village in order to connect both the villages through the land of the petitioner in Sy.No.148/1, the petitioner got issued a legal notice stating that there is already a pucca road existing between the two villages through which the vehicles were regularly plying. Due to his protest, the attempt to lay the road was dropped. While so, on 01.05.2010 respondents 1 to 5 were attempted to lay a road from Mukteswaram to Guntupally villages through the land of the petitioner under NREGS at the instigation of the 6th respondent due to political reasons. The petitioner has made a representation on 02.05.2010 to the 5th respondent requesting him to take immediate steps to get the matter enquired into and do the needful. But, no action has been taken by the 5th respondent on the representation made by the petitioner.

The grievance of the petitioner is that at the instigation of the 6th respondent, the official respondents are trying to lay the road through his land without there being any order of acquisition or any direction by the Government. Hence, the petitioner filed this writ petition.

Heard the learned counsel for the petitioner as well as the learned counsel for the respondents and perused the material available on record.

Learned counsel for the 5th respondent submitted that there is no sanction or orders by any of the authorities to lay the road in the aforesaid survey numbers. Learned counsel for the 6th respondent submitted that the proposal of laying the road was made by the public by collecting monies in order to connect the main road and the official respondents are in no way concerned with the laying of road.

In view of the stand taken by the 6th respondent that the road is being laid by the individuals without there being any sanction by the government, the petitioner is at liberty to challenge the action of the respondents before the appropriate Court. Further, if respondent Nos.1 to 5 intend to lay road through the land of the petitioner in Sy.Nos. 148/2, 148/3 and 149 of Chennupally village, Ballikurava Mandal, Prakasam District, the land shall be taken by following due process of law.

With the above observations, the writ petition is disposed of. There shall be no order as to costs. The miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

March 02, 2015.
KTU