

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

W.P.No.2394 of 2009

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“To issue a writ, order or direction, more particularly in the nature of Writ of Mandamus, declaring the action of the respondents in forcefully trying to lay the road across the petitioners plot No.41/1, Survey No.8, Ward No.11, Block No.12, in Survey No.8, Sriramakrishnapuram Colony, Saroornagar village and mandal, Ranga Reddy district, without following procedure, as illegal, arbitrary, violative of principles of natural justice and also Article 300-A of the Constitution of India”.

2. Heard Sri Sreenivasa Rao Velivela, learned counsel for the petitioners and Sri R.Radhakrishna Reddy, learned Standing Counsel for Respondent Corporation, apart from perusing the material available on record.

3. According to the petitioners, they are the absolute owners of 355 sq.yards of land in Plot No.41/1, Sy.No.8, Ward No.11, Block No.12, Sriramakrishnapuram Colony, Saroornagar village and mandal, Ranga Reddy district having purchased the same by way of registered Agreement-cum-GPA with possession dated 24.9.2008. It is also the case of the petitioners that their vendor purchased the property by way of registered sale deed dated 23.6.2006 from one Katta Satyanarayana. The grievance precisely in the present writ petition is that the officials of the respondent Corporation came to the site on 5.2.2009 and tried to lay road without initiating any procedure under the HMC Act or under Land Acquisition Act for acquisition of the property.

4. This Court, while issuing rule nisi on 11.2.2009, granted interim direction, directing the respondents not to interfere with possession and enjoyment of the petitioners in respect of the subject property and the said order is subsisting till date.

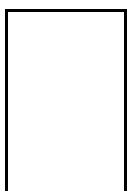
5. No counter affidavit has been filed by the Respondent Corporation, either in the direction of denying the averments made in the affidavit filed in support of the writ petition or in the direction of justifying the impugned action.

6. Right to property is a constitutional right as enshrined under Article 300-A of the Constitution of India, which in clear and unequivocal terms, mandates that no citizen of this country shall be deprived of his or her property except in accordance with the procedure established by law. In the instant case, the only grievance of the petitioner is that the Respondent Corporation is trying to lay road without following the due procedure established by law. In the considered opinion of this Court, the said action, in the absence of denial by way of filing counter cannot be approved by this Court. In the absence of any counter by the Respondent Corporation, the averments made in the affidavit filed in support of the writ petition are required to be construed as correct.

7. For the aforesaid reasons, the writ petition is disposed of, directing the respondents herein not to interfere with the possession and enjoyment of petitioners in respect of Plot No.41/1, Ward No.11, Block No.12 in Sy.No.8 of Sriramakrishnapuram Colony, Saroornagar village and mandal, Ranga Reddy district without following the due procedure established by law. 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: 12.2.2015



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

-

-

W.P.No.2394 of 2009

12.2.2015

DA

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

W.P.No.2394 of 2009

Date : 12.2.2015

Between:

M.Vijender & another.

... Petitioners

and

Greater Hyderabad Municipal Corporation,
represented by its Chief Commissioner,
Tank Bund, Hyderabad & another.

... Respondents