

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

W.P.No.26945 of 2008

ORDER:

This writ petition filed under Article 226 of the Constitution of India, challenges the action of the respondents in proposing to set up electricity sub-station on the petitioner land in Sy.No.330/AA of Zapthi Shunoor Villages adjacent to National Highway No.7, Shankarampet Mandal, Medak District as illegal, arbitrary and violative of petitioner's right over the property.

2. Heard Sri A.Ravi Shankar, learned counsel for the petitioner and Sri O.Manohar Reddy, learned Standing Counsel for Respondents 1 to 3 and the learned Government Pleader for Respondents 4 and 5, apart from perusing the material available on record.

3. According to the petitioner, he came back from United States of America about five years back with an intention to set up educational institutions for the poor and needy students and formed a society called 'Noor-ul-uloom Educational Society' with Registration No.3593 of 1991.

It is further pleaded that the petitioner has purchased lands in Survey Nos.330/AA, 301/AA, 299/AA and 330/AA admeasuring Ac.5-19½ guntas of land of Zapthi Shunoor village on the National High Way No.7 of Shankarampet Revenue Mandal, Medak District with an intention to construct schools, college with hostel facilities. In the present writ petition, it is the grievance of the petitioner herein that there is a proposal of the Government to construct electricity sub-station and the Revenue Divisional Officer has pointed out the land of the petitioner in Survey No.330/AA for installation of electricity sub-station. According to the petitioner, the respondents are attempting to do the same without recourse to law and without acquiring the said property under the relevant provisions of law under Land Acquisition Act.

4. This Court, while issuing rule nisi on 11.12.2008, in W.P.M.P.No.35299 of 2008 granted interim direction to the respondents not to install the electricity sub-station on the land of the petitioner in Sy.No.330 of Zapthi Shunoor village, unless the said land is acquired as per the procedure envisaged under the law. The said interim order is

subsisting till date.

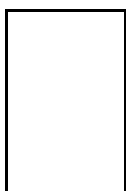
5. No counter affidavit has been filed by the respondents, either in the direction of denying the averments made in the affidavit filed in support of the writ petition or in the direction of justifying the impugned action.

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, it is the grievance of the petitioner that without recourse to law, the respondents herein are attempting to take possession of the property and trying to install the sub-station in his private property. This, in the considered opinion of this Court, cannot be permitted and the authorities cannot take possession of private properties without initiating proceedings under Land Acquisition Act and without paying compensation.

7. For the aforesaid reasons, the writ petition is allowed, directing the respondents herein not to install the sub-station on the land of the petitioner in Sy.No.330/AA of Zapthi Shunoor Villages adjacent to National Highway No.7, Shankarampet Mandal, Medak District without recourse to 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: 6.2.2015
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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Between:

Hyder Mohiuddin Ghor

... Petitioner

and

The Superintending Engineer,
A.P. Transco, Medak district and others.

... Respondents