

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

WRIT PETITION No.15445 OF 2009

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“...to issue a writ, order or direction more particularly one in nature of writ of mandamus directing the respondents herein not to dispossess the petitioner from petitioner patta land i.e., bearing Sy.No.71/C, 71/B and 67 in total extent Ac.06-20 guntas situated at Kothapally Shivar, Kataram Mandal, Karimnagar District for the purpose of laying the 30 feet road by duly declaring the action of the respondents for laying the 30 feet road without following due procedure under law as illegal, arbitrary and violative articles 14, 21 and 300-A of the Constitution of India.”

2. Heard learned counsel for the petitioner and learned Government Pleader for respondents.

3. The petitioner herein claims to be the owner, pattedar and possessor of agricultural land admeasuring Ac.06-20 guntas situated at Kothapally Shivar, Kataram Mandal, Karimnagar District and eking out his livelihood by doing cultivation in the said land. Complaint obviously in the writ petition is the action of the respondents in laying 30 feet road across the patta land of the petitioner herein.

4. This Court while ordering Rule nisi on 30.07.2009 granted interim order of *status quo* in W.P.M.P.20280 of 2009.

5. A counter-affidavit deposed by the 3rd respondent-Assistant Executive Engineer, Panchayath Raj Department, Kataram

Mandal, Karimnagar District, is filed stating *inter alia*, that the petitioner herein is not the pattedar of the land and that the said land belongs to the Government as per Adangal Pahani.

6. It is submitted by learned Government Pleader that since the petitioner herein is only a lavoni patta holder, he is not entitled for any compensation.

7. The issue in the writ petition is no longer *res integra* and in fact a Larger Bench of this Court in the case of **LAO-cum-Revenue Divisional Officer, Chevella, Domalaguda, Hyderabad and others V. Mekala Pandu and others**¹ at para 109 held as under:

“109. In the circumstances, we hold that the assignees of the Government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned lands are taken possession of by the State in accordance with the terms of grant or patta, though such resumption is for a public purpose. We further hold that even in cases where the State does not invoke the covenant of the grant or patta to resume the land for such public purpose and resorts to acquisition of the land under the provisions of the Land Acquisition Act, 1984, the assignees shall be entitled to compensation as owners of the land and for all other consequential benefits under the provisions of the Land Acquisition, Act, 1894. No condition incorporated in patta/deed of assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land.”

The Hon'ble Apex Court confirmed the said judgment. In view of the above reasons, the stand of the respondents that since the

¹ 2004 (2) ALD 451 (LB)

petitioner is only a lavoni patta holder, he is not entitled to any compensation, cannot be sustained in the eye of law.

8. In view of the above, the Writ Petition is allowed, directing the respondents herein not to dispossess the petitioner from the patta land in Sy.No.71/C, 71/B and 67, total extent Ac.06-20 guntas situated at Kothapally Shivar, Kataram Mandal, Karimnagar District for the purpose of laying 30 feet road as proposed, without following due procedure established under law. However, it is open to the respondents herein to acquire the subject property under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 only after paying the compensation to the petitioner under the said legislation.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

NOVEMBER 29, 2016
YVL

A.V.SESHA SAI, J

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



WRIT PETITION No.15445 OF 2009

Date:29.11.2016

YVL