

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.12093 OF 2012

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Municipal Administration and Urban Development. With their consent, the Writ Petition is disposed of at the admission stage.

2. The present writ petition came to be filed seeking issuance of writ of *mandamus* declaring the action of the respondents particularly respondent No.2 in giving markings to the buildings situated on the Main Road, Kakinada, Kakinada Municipal Corporation, East Godavari District belong to the petitioners proposing to demolish the same for the purpose of road widening without issuing any notice; paying any compensation and without following Sections 146 and 147 of the Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act') in informing the petitioners about Transferable Development Rights (TDR) as per G.O.Ms.No.302, dated 15.04.2008 despite clear directions given by this Court as illegal and arbitrary.

3. The averments in the affidavit filed in support of the writ petition would show that the petitioners are absolute owners of buildings situated on the Main Road @ Netaji Road, Kakinada, which were proposed to be demolished by the 2nd respondent for the purpose of road widening. The 2nd respondent proposed to widen the main road from 60 feet to 80 feet as per the Master Plan, 1975. It is said that in the year 2006 also he proposed to widen the road and markings were given to the buildings. Then, the building owners have raised objections with regard to marking of the buildings for demolition without paying any compensation

and without following the Land Acquisition proceedings. Several writ petitions came to be filed before this Court challenging the action of the 2nd respondent and the same were allowed directing the 2nd respondent to follow the procedure contemplated under Section 146 and 147 of the Act and not to demolish the structures. After elapse of certain time, the 2nd respondent again proposed to widen the road from 60 feet to 80 feet without following the directions given in the earlier writ petitions. It is said that the 2nd respondent called upon a meeting held on 20.03.2012 and demanded the owners to give consent for demolishing their buildings. When the buildings owners objected for the same and also brought to the notice of the 2nd respondent with regard to the earlier directions of this Court, he intimated the buildings owners that he would demolish the buildings by granting TDRs to the land losers, which may be utilized in future. The said action of the 2nd respondent is subject matter of challenge in the present Writ Petition.

4. This Court while ordering notice before admission, granted interim direction to the authorities not to demolish the property of the petitioners, which is required for road widening, without following due process of law.

5. A counter came to be filed by the 2nd respondent disputing the averments in the affidavit filed in support of the writ petition. It is stated that the respondent authorities will not take any action without following due process of law. It is further stated that the respondent authorities are trying to convince the land owners by explaining the benefits which are going to be extended if the said property is allowed to be demolished.

6. At this stage, it is stated across the Bar that any action

done or initiated by the respondents would be in accordance with law duly following the procedure contemplated under Sections 147 and 148 of the Act or the provisions of the Land Acquisition Act, as the case may be.

7. In view of the averments in the counter and the statement made by the learned Government Pleader for Municipal Administration and Urban Development, without going into the merits of the case, the Writ Petition is disposed of directing the authorities concerned not to demolish the structures of the petitioners' buildings situated on the Main Road, Kakinada, Kakinada Municipal Corporation, East Godavari District without following due process of law.

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

JUSTICE C. PRAVEEN KUMAR

Date:25.01.2016
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