

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.7308 OF 2007

ORDER:

The petitioner is owner of an extent of Ac.0-50 cents in R.S.No.167/1A of Dandagarra Village, H/o Aarugolanu, Tadepalligudem Mandal, West Godavari District. The petitioner anticipating unauthorized and illegal dispossession by respondents from petition schedule property has filed the writ petition for the following relief:

.....this Hon'ble court may be pleased to issue a Writ, direction or order more particularly one in the nature of writ of mandamus declaring the action of respondents in seeking to dispossess the petitioner from her land of an extent of Ac.0.50 cents in R.S.No.167/1A situated at Dandagarra Village, Hamlet of Arugolanu, Tadepalligudem Mandal, W.G.District as arbitrary illegal, unconstitutional and violative of principles of natural justice and issue a consequential direction restraining the respondents from interfering with the peaceful possession and enjoyment of the petitioner's land and pass.....”

On 10.04.2007, this Court granted interim direction as prayed for. The same is subsisting as on date.

The 3rd respondent filed counter and also a petition to vacate the interim order.

After perusing the stand taken in the counter-affidavit, this Court is satisfied that the fear expressed by the petitioner would have been carried out but for the protection granted through the interim order dated 10.04.2007. The 3rd respondent admits that the petitioner is owner of an extent of Ac.0-50 cents of petition land and the respondents have initiated land acquisition proceedings for providing house site to weaker sections under the welfare programme implemented by the State Government. The respondent refers to

issuing notice of enquiry under Section 5-A of the Land Acquisition Act to one Alluri Visweswara Rao, s/o Tatayya. The said Visweswara Rao in the enquiry under Section 5-A of the Act informed the Land Acquisition Officer that he is owner of an extent of Ac.0-05 cents of land in Sy.No.167/1A and the petitioner is owner of Ac.0-50 cents of land under acquisition. The respondent admits that notice under Section 5-A was not issued to petitioner or the draft declaration bears the name of petitioner. In paragraph 9 of the counter-affidavit, it is specifically stated that the petitioner was not dispossessed from petition land. From the stand taken in the counter-affidavit, it is clear that an attempt was, in fact, made to dispossess the petitioner without subjecting the petitioner to the procedure stipulated by law. As on date, there is no draft declaration including the name of the petitioner to proceed further in the matter.

Therefore, the writ petition is ordered by directing the respondents not to dispossess the petitioner except in the manner prescribed by law.

It is required to be noted that with the passage of time from 2007 till date, the changed circumstances which have bearing on the necessity to acquire petitioner's land also may be examined before proceeding further in the matter. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, stand closed.

S.V.BHATT, J

Dt.27.08.2016

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