

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 19073 OF 2012

ORDER:

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

“...to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in laying the road in my agriculture land in Sy.No.325 to an extent of Ac.6.24 cents in Sangala Revenue Village, Battalapalli Mandal of Anantapur District without following the due process of law as bad, arbitrary and offends Articles 14, 21 and 300-A of the Constitution of India.”

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

According to the petitioner, he is the owner of the agricultural land admeasuring Ac.6.24 cents in Sy.No.325 of Sangala Revenue Village, Battalapalli Mandal, Anantapur District, and he got the said property by way of a gift deed bearing D.No.3822 of 2006, dated 18.08.2006, executed by his grandmother. The allegation in the present writ petition is that the respondents are laying a road unauthorizedly and illegally through the said land.

Learned counsel for the petitioner submits that the respondents, without recourse to law, are undertaking the activity of laying the road through the private land of the petitioner and the same is in violation of the fundamental rights guaranteed to the petitioner and violative of Articles 14, 21 and 300-A of the Constitution of India.

This Court, on 27.06.2012, while ordering notice, directed the respondents not to dispossess the petitioner from the land in question for the purpose of construction of road, without following due process of law.

Right to property is a constitutional right as enshrined under Article 300A of the Constitution of India. It mandates that no citizen of this country shall be deprived of his/her property except in accordance with the procedure established by law.

In the instant case, it is the specific allegation of the petitioner that without recourse to law, the respondents have started laying a road through his private land. If the land of the petitioner is required for any public purpose, it is obligatory on the part of the respondent authorities to acquire the same by following the procedure as contemplated under the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013, but cannot high handedly lay any road through the land of the petitioner, without following due process of law i.e., without paying any compensation.

For the aforesaid reasons, the Writ Petition is allowed directing the respondents not to undertake any activity including laying of road through the land of the petitioner. However, this order will not preclude the respondents from proceeding in accordance with law.

Miscellaneous petitions, if any, shall stand closed. No order as to costs.

A.V. SESA SAI, J

Date: 07.11.2016
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