

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.8509 of 2011

ORDER:

Heard the counsel for the petitioner, the Government Pleaders for Revenue and the Government Pleaders for Panchayat Raj appearing for respondents.

2. This Writ Petition is filed by the petitioner complaining against the action of the respondents in laying a road through his land in survey No.395 of Potlapadu Village, Devarakonda Mandal, Adoni Revenue Division, Kurnool District.

3. Petitioner contends that he is the owner and possessor of Ac. 6.50 cents in survey No.392 and Ac. 5.55 cents in survey No.395 of the said village, that they are his ancestral properties and that he had also been issued Pattadar Passbook and Title Deed for the said land.

4. Petitioner asserts that in 2006 there was a proposal to lay a road from Kothapet to Ternakel via Pullapuram Village; the 2nd respondent sanctioned plan for laying the said road on 11.02.2006; that as per the said plan, the road has to be laid adjacent to survey No.395 and through the land belonging to the Scheduled Caste Community people; that since the latter objected to the laying of the road through their land, the respondents laid the road through the petitioner's land in survey No.395. Petitioner contended that Ac.0-30 cents of his land in survey No.395 was utilized for the purpose of the road, by deviating from the original plan, taking advantage of the petitioner's absence in the village on 23.03.2011 without acquiring the same under the provisions of the Land Acquisition Act, 1894. Petitioner contends that the said action of

the respondents in laying road in the petitioner's land of an extent of Ac. 0-30 cents in survey No.395 of the above village is violative of Articles 14 and 300A of the Constitution of India.

5. Counter affidavit is filed by the 2nd respondent admitting that Ac.0-30 cents of petitioner's property was utilized by respondents 3 and 4 for laying a kachha road and also admitting that they have not received any requisition from the Revenue Department for initiating acquisition proceedings for this extent. He stated that as and when requisition is received by the Revenue Department, necessary steps would be initiated in terms of the provisions of the Land Acquisition Act, 1894 or any other law applicable.

6. Although counter affidavit has been filed by respondents 3 and 4 disputing that the road was laid in the petitioner's land, in view of the admission in the counter affidavit filed by 2nd respondent, who is an employee of Revenue Department, that Ac. 0-30 cents of the petitioner's land was utilized for the purpose of laying road, and since the word of the officials of the Revenue Department would have more weight in matters relating to location of lands in the village, it has to be held that road was laid utilizing Ac.0-30 cents of petitioner's land. This action of the respondents in laying a road through the petitioner's land is in clear violation of Articles 14 and 300A of the constitution of India.

7. Therefore, the Writ Petition is allowed; the action of the respondents in laying a road through Ac.0-30 cents of petitioner's land in survey No.395 of Potlapadu Village, Devarakonda Mandal, Adoni Revenue Division, Kurnool District is declared to be violative of Articles 14 and 300A of the Constitution of India; and the respondents are directed to initiate proceedings under The Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement *Act, 2013* and pay compensation to the petitioner for the above extent of land within three (03) months from the date of receipt of a copy of this order. There shall be no order as to costs.

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

M.S.RAMACHANDRA RAO, J

30th June, 2016
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