

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.1291 of 2016

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Date: 19.01.2016

Between:

Gorle Appala Bharath Kumar and another

.. Petitioners

and

The State of Andhra Pradesh
rep. by its Prl.Secretary
Municipal Administration and
Urban Development Dept.,
Hyderabad and 2 others.

.. Respondents

Counsel for the petitioner : Mr.P.Kesava Rao

**Counsel for respondent No.1: GP for Municipal
Administration (AP)**

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The Court made the following:

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Order:

This Writ Petition is filed for a Mandamus to declare the action of the respondents, in attempting to dispossess the petitioners from the lands admeasuring 376 square meters equivalent to 449.69 square yards forming part of the premises bearing H.No.16-151 of Srinivasa Nagar, Simhachalam – Gopalapatnam Road, Visakhapatnam, as illegal and arbitrary.

The petitioners have also assailed the notice in Rc.No.0115/2015/ACP-VI, dated 27-10-2015, of respondent No.2.

I have heard Mr.P.Kesava Rao, learned Counsel for the petitioners, and Mr.S.Lakshminarayana Reddy, learned Standing Counsel representing respondent No.2- Greater Visakhapatnam Municipal Corporation (for short 'the Corporation').

By the impugned notice, the Commissioner of respondent No.2- Corporation, while informing the petitioners that an extent of 376 square meters equivalent to 449.69 square yards along with the structures belonging to them falls in the proposed 100 feet road widening, requested them to extend

their co-operation by handing over the site and structures against payment of structural compensation and issue of TDR Certificates. Being unwilling to accept the said proposal, the petitioners have filed the present Writ Petition.

During the hearing of the case, the learned Counsel for the petitioners submitted that post issue of the impugned notice, respondent No.2 has shifted the poles, which were standing on the road margin before the road was partly widened, into the land belonging to the petitioners.

Mr.S.Lakshminarayana Reddy, learned Standing Counsel for respondent No.2-Corporation, submitted that the road widening work was undertaken in three phases; that, so far, the second phase has been completed; and that it is only in the third phase that the petitioners' property will be affected. He has further submitted that so far, respondent Nos.2 and 3 have not taken possession of any part of the petitioners' property, and that if the electrical poles have been shifted to the said property, the petitioners can make a representation to respondent No.2 in this regard.

As regards the impugned notice issued by respondent No.2 under Section 146 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'), which is made applicable to respondent No.2- Corporation, the learned Standing Counsel has submitted that respondent No.2- Corporation has the power to acquire the land through consent; that the impugned notice is issued as a part of this process; and that if the petitioners are unwilling to part with their land, respondent No.2 will be left with no option other than following the procedure prescribed under Section 147 of the Act.

In the impugned notice, no decision adverse to the interests of the petitioners has been taken so far. If the petitioners have any objection to the proposals made in the said notice, they are entitled to submit their objections and in such an event, respondent No.2 can only acquire the land by following the procedure prescribed under Section 147 of the Act.

With regard to the alleged erection of poles on the petitioners' land, the same is not subject matter of the present Writ Petition and if the

petitioners are aggrieved thereby, they are entitled to make a representation in that regard to respondent No.2, who shall consider the same and do the needful according to law.

Subject to the above observations, the Writ Petition stands disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.1637 of 2016, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 19th January, 2016
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