

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.33412 of 2015 and CONTEMPT CASE No.119 of 2016

COMMON ORDER:

1. This Writ Petition and the Contempt Case, arising out of an interim order in W.P.M.P.No.43092 of 2015 dated 09.10.2015, are being disposed of by this common order.
2. The petitioners claim that they are the lawful owners and possessors of agricultural land in Sy.Nos.308, 309, 311, 313, 315, 318 and 333, admeasuring Ac.46.00 guntas, situated in Pullaigudem village, Atmakur Mandal, Nalgonda District. They utilized the said land for the development of medicinal plantation and dug bore wells. While so, it appears that in the year 2010, the Irrigation Department officials made proposals for digging Bunadigani canal. The petitioners submitted a letter on 15.07.2010 to the District Collector, Nalgonda, to depute revenue, irrigation or any other departmental officials to assess the loss that is going to occur and decide the compensation at mutually agreeable rate. It appears that after receipt of the said representation, the concerned Divisional Engineer and Assistant Engineer of Irrigation Department visited the land and agreed for changing the alignment as the acquisition is dividing the land into two parts. Thereafter, the petitioners stated that they purchased another extent of land admeasuring Ac.1.00 guntas in Sy.No.308 situated at Pullaigudem village, Atmakur Mandal. No action was taken for over five years. On 27.08.2015 the 5th respondent entered the property of the petitioners and started

digging the land by removing fencing wires and cutting down the trees. The petitioners state that they incurred huge loss of Rs.10,00,000/-. They also state that the Canal was dug to the extent of 1400 feet and nearly 8-year-old trees of Teak, Red sanders and Neem were cut. The petitioners got issued a notice through their counsel on 03.09.2015 calling upon the respondents to stop digging of their land. When there was no response from the respondents, the petitioners filed the present writ petition.

3. This Court by order dated 09.10.2015 directed the respondents not to interfere with the scheduled property. Alleging violation of the said order, the petitioners filed Contempt Case No.119 of 2016.

4. The respondents, particularly the 2nd respondent, filed a counter-affidavit along with W.V.M.P.No.1255 of 2016 seeking vacation of the aforesaid interim order dated 09.10.2015 and also filed a separate counter-affidavit in the Contempt Case. The 2nd respondent states that the administrative approval for excavation of feeder channel from Bunyadiganicheruvu, Pahilwanpur village, Valigonda Mandal to Ooracheruvu, Dharmaram village, Mothkur Mandal to feed M.I. Tanks of Valigonda, Athmakur Mandal and Mothkur Mandals of Nalgonda District, was accorded and the work was entrusted to a Contractor on 26.10.2007. The alignment of the said work passes through the land of the petitioners in Sy.Nos.309, 311, 315 and 318 and the department requires the land of the petitioners to an extent of Ac.4.36 guntas. The existence of the trees was denied. It is also stated that the petitioners approached the

department in the year 2012 for changing the alignment so as to minimize the loss as the proposed alignment divides their land into two pieces. As per the approved alignment, the Canal was dug through the petitioners land during August 2015 much prior to filing of the writ petition. The petitioners purchased the land only after approval of the alignment. In view of the consent letter submitted by the petitioners on 15.07.2010, the department started execution of the work under the impression that it would be enough to pay compensation by following the existing rules. The petitioners served the notice dated 03.09.2015 to the Executive Engineer on 05.09.2015. The area of operation of the works comes under the jurisdiction of Executive Engineer, I.B. Division, Bhongir. Hence, the notice received by the Executive Engineer, I.B. Division, Nalgonda, was transmitted to the I.B. Division, Bhongir, on 05.09.2015. No work was executed after 05.09.2015 in the petitioners land. It is also categorically stated that the balance work will be executed only after payment of land acquisition amount to the petitioners and after vacation of the interim orders. The other portion of the canal work was nearing completion except to the extent of land owned by the petitioners.

5. The petitioners, in support of their allegation that even after interim order passed by this Court on 09.10.2015 the respondents executed the work, relied on a complaint given by them to the Sub Inspector of Police, Athmakur, Nalgonda District, on 27.10.2015. The complainant states that the work was executed somewhere in

August 2015 and there was a threatening call on 13.10.2015. There is no other evidence with regard to the execution of the work after 09.10.2015. However, it is clear from the record that no proceedings were taken for acquisition of the lands of the petitioners under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Since it is an admitted case that the petitioners are the owners of the land of an extent of Ac.4.36 guntas involved in the proposed execution of feeder channel, the respondents have to take the proceedings in accordance with law before entering the land of the petitioners. In the absence of such exercise, the interference in the land of the petitioners cannot be held valid.

6. In the circumstances, the Writ Petition is allowed by directing the respondents not to interfere with the land of the petitioners except in accordance with law. No order as to costs.

Since there is no evidence with regard to the interference of the land of the petitioners after passing the interim order on 09.10.2013, the Contempt Case against the respondents is dismissed. No order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J