

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[Special Original Jurisdiction]

SATURDAY THE SEVENTEENTH DAY OF SEPTEMBER, 2016

PRESENT
HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION NO. 31504 OF 2016

Between:

Gunji Hari Babu & Ors. ... Petitioners

V/s.

State of Andhra Pradesh
Rep. by its Prl. Secretary
Revenue [Land Acquisition]
Secretariat, Hyderabad & Ors. ... Respondents



Counsel for the Petitioners: Sri K. Ananda Rao

Counsel for the Respondents: GP for Revenue for R1 to R4
[AP]

The court made the following: [order follows]

HONOURABLE SRI JUSTICE SURESH KUMAR KAITWRIT PETITION NO. 31504 OF 2016ORDER :

This writ petition is filed by the petitioners seeking mandamus to declare the action of the respondents in threatening to evict the petitioners from the land in survey No. 335 of Kothapalli kourugunta village, Dagadarthi Revenue Mandal, SPSR Nellore district without following due process of law under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act 30 of 2013, without preparing the social impact assessment report, as illegal, arbitrary, unconstitutional and against the concept of welfare state, consequently to direct the respondent authorities to pay compensation before evicting the petitioners from the subject land in survey No. 335 of Kothapallikourugunta village, Dagadarthi Mandal, SPSR Nellore district and to pass such other suitable orders as this Court may deem fit and proper in the circumstances of the case.

2. Heard the learned counsel for the petitioners and learned Government Pleader for respondents.

3. Notice issued. Learned Government Pleader takes notice on behalf of respondents.

4. It is stated in the writ affidavit that the petitioners belong to B.C., S.C. and S.T. communities. All are agriculture labours, eking out livelihood by doing agriculture operations. All are landless poor persons and entitled to get 'D' form pattas in the Government land. The land in an extent of Ac:204 and odd situated in survey No. 335 of Kothapalli Kourugunta village belong to the Government which is a banjar [fallow] land unfit for cultivation. The petitioners being the agriculture labours with a view to eking out livelihood by doing cultivation in the said Government land, occupied an extent of Ac:2-00 and odd by each about 20 years ago and made the said land into a cultivable by spending the hard earnings of the petitioners. It is further stated in the writ affidavit that for the last 20 years and odd these petitioners have been in occupation of small extent of land in

survey number No.335 of Kothapalli Kourugunta village and cultivating for livelihood. It is needless to say that the possession of the land by the petitioners is an uninterrupted and continuous possession, nobody has pointed out including the respondent authorities about their occupation and enjoyment of the subject land. Thus, the petitioners have established their constructive possession for the said land and enjoying the same by raising crop for their livelihood.

5. The petitioners came to know that about three or four months ago, at the instance of second and third respondents, the officials came and inspected the subject land, prepared the statement of the enjoyers including the petitioners over the subject land with a view to pay compensation in lieu of their eviction for the purpose of construction of Greenfield Airport in the subject land and other adjacent lands. It is also stated that in the said lands the petitioners names were included in enjoyer column of the said land.

6. Learned counsel for the petitioners submit that for the aforesaid relief, the petitioners made representations dated 28/6/2016 and 26/7/2016 to the second respondent-District Collector, SPSR Nellore district. However, no response.

7. Be that as it may, as claimed by the petitioners that they are in possession for the last twenty years, therefore, their representation shall be considered in view of the State Policy in vogue and Act No.30 of 2013 and shall pay ex-gratia /compensation as per their entitlement.

8. Keeping in view of the averments made in the affidavit filed in support of the petition and submission of the counsel for the parties, I hereby direct the second respondent-District Collector, SPSR Nellore district, to consider and dispose of the representations dated 28/6/2016 and 26/7/2016 filed by the petitioners and pass appropriate orders on merits and in accordance with policy in force and the laws, within a period of four weeks from the date of receipt of a copy of this order.

9. I hereby make it clear that the possession of the petitioners shall not be disturbed without paying compensation, if they are entitled to.

10. I further make it clear that the decision taken by the respondents shall be communicated to the petitioners in writing within a week from the decision. If the respondents come to the conclusion that the petitioners are not entitled for the compensation, the possession of the petitioners shall not be disturbed for one month from the date of communication of the said decision.

11. In view of the above direction, the writ petition is disposed of at the stage of admission. No costs.

12. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE SURESH KUMAR KAIT.

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION NO. 31504 OF 2016



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