

HON'BLE SRI JUSTICE S.V. BHATT
WRIT PETITION No.11414 OF 2012

ORDER :

Heard Sri Mummaneni Srinivasa Rao, learned counsel for the petitioners and learned Assistant Government Pleader for the 1st respondent.

The petitioners pray for the following relief.

“Writ of Mandamus, questioning the action of the respondent Nos.1 to 4 in not taking action against the 5th respondent herein for illegally excavated the entire soil including gravel from the petitioners land to an extent of Ac.19.70 cents in Survey No.32 of Uppeduveerapuram Village and Mandal, Khammam District out of which Ac.5.00 cents of land of the petitioners is illegally excavated the soil to a depth of 5 feet and the said gravel for the purpose of construction of the tank bund of project (Palemvagu Project) Venkatapuram Mandal, Khammam District is illegal and void and opposed to Articles 14, 19, 21 and 300-A of Constitution of India and consequently to direct the respondents to acquire the land in question of the petitioners herein by initiating the proceedings under the Land Acquisition Act and pay the compensation to the petitioners herein including taking necessary steps against the 5th respondent for recovery of the same.”

The 1st respondent has filed counter affidavit disputing that the State is under obligation to acquire the land and that if any soil is excavated from the land of the petitioners, the same is unauthorized and not at the instance of the State Government.

From the material available on record, learned counsel for the petitioners fairly submits that the cause of action is against the 5th respondent and the petitioners may be given liberty to work out the remedy against the 5th respondent in a properly instituted suit or proceeding.

Having regard to the stand taken by the 1st respondent, I am

satisfied that the writ petition can be disposed of by granting liberty to the petitioners to proceed against the 5th respondent for an act of commission or omission which resulted in deterioration of quality/valuation of petitioners' land in a properly instituted suit or proceedings.

With the above observation, the writ petition is disposed of.
There shall be no order as to costs.

Pending miscellaneous petitions in this Writ Petition, if any, shall stand dismissed in consequence.

S.V. BHATT, J

16.02.2016
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