

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.20562 of 2010

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the action of the respondents in laying new road from Garlapadu village to Keshavapuram village through the lands of the petitioners situated in Sy.Nos.302, 304, 301, 307, 308, 309, 310, 312, 313 and 314 of Garlapadu village, Koilkonda mandal, Mahabubnagar District as illegal, arbitrary and violative of principles of natural justice.

Heard, learned counsel for the petitioners and learned Government Pleader for Panchayat Raj for respondents.

According to the petitioners, they are the owners of various extents of lands in the above mentioned survey numbers and the said lands are agricultural lands and names of the petitioners are recorded in the revenue records and pahanies. It is also stated that the authorities also issued pattedar passbooks and title deeds. It is further stated that the petitioners herein are agricultural farmers, holding small extents and eking out their livelihood solely depending on the said small extents of lands.

Reiterating the averments in the affidavit filed in support of the writ petition, it is submitted by learned counsel for the petitioners that the impugned action on the part of the respondent authorities in seeking to lay road through the lands of the petitioners herein without being preceded by any proceedings initiated under the Land Acquisition Act is highly illegal, arbitrary, unreasonable and violative of Articles 14, 21 and 300-A of Constitution of India. It is further submitted by learned counsel that the respondents did not even issue any notice to the petitioners herein and on the other hand highhandedly proceeding with the process of laying the road.

A counter-affidavit, deposed by the Deputy Executive Engineer, P.R.I. Sub-Division, Narayanpet, Mahabubnagar District – 2nd respondent herein, is filed stating that there is an existing road for the last 15 years and that there is a proposal to improve the same under the Prime Minister Grameena Sadak Yojana Scheme on the request made by the villagers of Keshawapur. It is further stated that the question of acquisition of the property would not arise.

Normally, in the rural areas we find the pathways through the lands of the farmers and usage of the same by the farmers in and around. Simply because the said practice is there, the same cannot be construed as public roads.

In the counter-affidavit it is categorically stated that road is passing through the survey numbers as indicated by the petitioners and the respondents seek to deny the claim of the petitioners on the ground that they are upgrading the existing road only. Paragraph No.4 of the counter-affidavit clearly shows that the respondents are taking up the process of laying of the road under Prime Minister Grameena Sadak Yojana on permanent basis.

In support of their right over the property, the petitioners herein have enclosed the extracts of pahanies, which clearly reflect the names of the petitioners herein. In fact, the title of the petitioners is not disputed by the respondents.

Article 300-A of the Constitution of India mandates, in clear and un-equivocal terms that no citizen of this country should be deprived of his/her property except in accordance with the procedure established by law. In the considered opinion of this Court, the same is being followed in breach in the instant case in the name of upgradation of the road. The said action cannot be approved by this Court.

In fact, while admitting the writ petition this Court in WPMP No.26150 of 2010 directed the respondents not to interfere with the possession of the petitioners over the

subject lands except in accordance with the due procedure laid down by law.

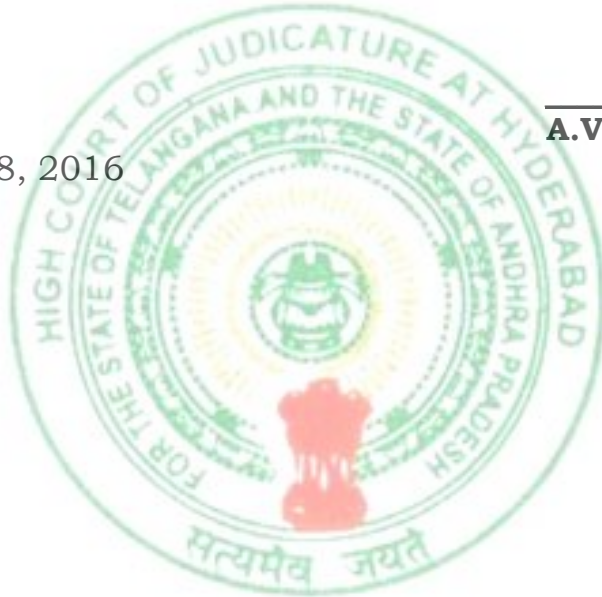
For the aforesaid reasons, the writ petition is allowed, as prayed for. However, this order will not preclude the respondents from proceeding, in accordance with law and in the light of the observations made supra.

Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

December 08, 2016

Pn

A.V. SESA SAI, J



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