

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

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WRIT PETITION No.36260 OF 2012
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ORDER:

This writ petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in seeking to acquire the land of the petitioners inclusive of a residential building bearing H.No. 23-6-75/2 built in 330 sq.yds, and Plot No.70, admeasuring 383 sq.yds, abutting to the Hunter Road, Shayampet Jagir, Hanamkonda Mandal, Warangal District, to the extent of 60 feet width for the purpose of widening of the existing road locally known as Hunter Road leading from Cross Roads of Shayampet Jagir to the Old Nature Cure Hospital, from 40 feet to 100 feet instead of acquiring equal width of the land from both sides of the road for the purpose of widening of the road and without initiating proceedings under the Land Acquisition Act as illegal, arbitrary and violative of Article 14 of the Constitution of India and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. A counter affidavit deposed by the 3rd respondent – The Executive Engineer, Roads and Building Department, Warangal, has been filed and the paragraph Nos.5, 6 and 7 of the said counter read as follows:

“5. I submit that, the Kakatiya Urban Development Authority, Master Plan has been approved by the Government of Andhra Pradesh and in the said Master plan, the subject matter of the Hunter road was sanctioned as 100 feet road in the year 1971. It has proposed road width of 100' i.e, 50' from center on either side in Hunter road, Warangal town which is not completely implemented. The R&B Department has taken up the improvements on the existing 100 feet road

only where in the existing B.T carriageway is being widened from 25 feet to 60 feet with side drains on either side ending at 50 feet from the centre of the road. Further it is submitted that throughout the entire stretch of the road, the widening is taken up on both sides of the road which falls within existing 100 feet right of way of the road. Though the widening of B.T carriageway is taken up on one side, to straighten the curves at some places to avoid accidents and ensure safety to the travelers, the scope of the work is well within the existing 100 feet right of way of the road only. In view of the above, the averments made by the petitioner are false and denied.

6. I submit that, the contents and averments made by the petitioners are false and the said Hunter road is a 100 feet road as per the Master plan sanctioned in 1971. A copy of the Master plan obtained from Kakatiya Urban Development Authority, Warangal is herewith enclosed for kind perusal of this Hon'ble Court. The improvements of the existing 100 feet road are taken up to widen the existing 25 feet B.T. carriageway to 61 feet B.T. carriageway with side drains ending at 50 feet in 1971. The R&B department has no requirement to acquire the land of the petitioners, as the entire widening is taken up within the existing 100 feet right of way of the road only. This department has not encroached any of the land of the petitioners as the scope of the work is within the 100' right of way in accordance with the Master plan sanctioned in 1971. As already stated in the above paras there is no need to acquire the land of the petitioners as the work is taken up well within the existing 100 feet right of way of the road and hence the question of compensation does not arise.

7. I submit that, in reply to other paragraphs, as per the directions of the Hon'ble High Court the Road widening work was stopped and the Department taken up the work up to 47 feet from centre of the existing road as per approved Master Plan, the balance work will be taken up only after acquisition of land as per rules by the Kakatiya Urban Development Authority, Warangal. I submit that, Kakatiya Urban Development Authority, Warangal is the competent to acquire the land in the Kakatiya Urban Development Authority limits. As per the

Master Plan the road should be at 100'ft. The R&B department measured the existing road from the centre of the road and as such marking was done to identify the encroachments which falls within road boundary.”

3. In view of the averments made in the above said paragraphs, writ petition is disposed of, keeping it open for the respondents herein to act in accordance with law and in terms of the averments made in the above said paragraphs.
4. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

18.01.2016
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