

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

WRIT PETITION No. 25228 of 2012

ORDER:

This writ petition is filed for the following relief:

“..to issue as appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents threatening to acquire the Petitioners private lands i.e., extent of land Ac.0.43½ Cts in Sy.No.506-4, Ac.1.45 Cts in Sy.No.506-4, Ac.1.30 Cts in Sy.No.496-1 and Ac.0.22 cents in Sy.No.493, Ac.0.70 Cts in Sy.No.495, Ac.0.02 Cts in Sy.No.497, Ac.0.26 Cts in Sy.No.498-2, Ac.1.28 Cts in Sy.No.499, Ac.0.56¼ Cts in Sy.No.506-3, Ac.1.49 Cts in Sy.No.506-5 and Ac.0.82 Cts in Sy.No.506-7 of Locherla Village, Kothacheruvu Mandal, Anantapur District in order to lay Road without initiating Land Acquisition Proceedings as illegal, unconstitutional and violation of the principles of natural justice besides violative of Articles 21, 300-A of the Constitution of India and consequently direct the Respondents not to acquire the Petitioner's private lands i.e., extent of land Ac.0.43½ Cts in Sy.No.506-4, Ac.1.45 Cts in Sy.No.506-4, Ac.1.30 Cts in Sy.No.496-1 and Ac.0.22 cents in Sy.No.493, Ac.0.70 Cts in Sy.No.495, Ac.0.02 Cts in Sy.No.497, Ac.0.26 Cts in Sy.No.498-2, Ac.1.28 Cts in Sy.No.499, Ac.0.56¼ Cts in Sy.No.506-3, Ac.1.49 Cts in Sy.No.506-5 and Ac.0.82 Cts in Sy.No.506-7 of Locherla Village, Kothacehruvu Mandal, Anantapur District without invoking Land Acquisition Proceedings, without following due process of law.”

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

According to the petitioners, they are the owners and possessors of the private properties situated in Survey Nos.506-4, 496-1, 493, 495, 497, 498-2, 499, 506-3, 506-5 and 506-7 of Locherla Village, Kothacheruvu Mandal, Anantapur District, having purchased the same by way of registered sale deeds. Their grievance in the present writ petition is that respondents 2 and 3 came to the above said lands on 07.08.2012, started markings and tried to cause damage to their agricultural properties by orally saying that they will lay road from Mallillakunta Village to Guntapalli Village of Kothacheruvu Mandal, Anantapur District. It is stated in the writ affidavit that the respondents herein resorted to such action without issuing any notice and without initiating proceedings under the Land Acquisition Act, 1894. They alleged that the respondents are making hectic efforts for laying the road across the private properties of the petitioners.

According to the learned counsel, the said action on the part of the respondent authorities is violative of Articles 21 and 300A of the Constitution of India.

This Court, while ordering notice before admission, on 17.08.2012 in W.P.M.P.No.32172 of 2012, passed the following interim order:

“In view of the apprehensions of the petitioners that their private lands are likely to be interfered with by laying of road over such lands without taking possession of them and without due process of law, the respondents shall not interfere with the private lands of the petitioners specified in the writ affidavit except otherwise than under due process of law.”

No counter-affidavit is filed, denying the averments in the affidavit filed in support of the writ petition and in the direction of justifying the impugned alleged action.

Right to property is a Constitutional Right. Article 300-A of the Constitution of India mandates, in clear and unequivocal terms, that no citizen of this country shall be deprived of his/her property except in accordance with the procedure established by law.

In the instant case, it is the categorical allegation of the petitioners herein that without adhering to the said constitutional mandate, the respondent authorities are trying to lay the road across their lands.

In the absence of any counter, this Court deems it appropriate to dispose of the writ petition by directing the respondents not to interfere with the subject lands of the petitioner's herein without recourse to law.

For the aforesaid reasons, the Writ Petition is disposed of, directing the respondents not to interfere with the possession and enjoyment of the petitioners herein in respect of the subject properties without recourse to law. However, this order will not preclude the respondents from proceeding in accordance with law and in the light of the observations made supra.

As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 24.11.2016

va