

HON'BLE SRI JUSTICE A.V. SETHA SAI

WRIT PETITION No. 16341 OF 2012

ORDER:

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

“...to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in trying to expand the existing six feet road into 30 feet road towards Gorsa, Via Nagampeta, Chitrada Village through the lands of the petitioners situated in Sy.No. 16 with an extent of Ac.1.16 cents situated in Komarigiri Village, U-Kothapalli Mandal, the land with an extent of Ac. 5.67 cents in Sy.No. 233/7B, 231/7, 231/9, 231/10, 283/1 and 233/2 respectively of Chitrada Village, Pithapuram Mandal, the land with an extent of Ac.2.89 cents in Sy.No. 231/6, 231/5H, 231/7A, 231/8 & 231/9A of Chitrada Village, Pithapuram Mandal, the land with an extent of Ac.0.45 cents in Sy.No. 231/5 of Chitrada Village, Pithapuram Mandal, the land with an extent of Ac.2.85 cents in Sy.No. 231/2 of Chitrada Village, Pithapuram Mandal, the land with an extent of Ac.0.44 cents in Sy.No.16/2 of Komaragiri Village, U-Kothapalli Mandal respectively, without consent of the petitioners and without following the due process of law is highly illegal, arbitrary and in violation of Article 300-A of the Constitution of India and consequently direct the respondents not to lay the road through petitioners land without following the procedure.”

Heard learned counsel for the petitioners, learned Government Pleader for Panchayat Raj for respondent Nos.1, 4 and 5 and Sri Ravi Chimalapati for respondent Nos.2 and 3.

According to the petitioners, they are the owners of the agricultural lands situated in Sy.Nos.16 of Komarigiri Village, U-Kothapalli Mandal, 233/7B, 231/7, 231/9, 231/10, 283/1, 233/2, 231/6, 231/5H, 231/7A, 231/8, 231/9A, 231/5 and 231/2 of Chitrada Village of Pithapuram Mandal, and 16/2 of Komarigiri Village, U-Kothapalli Mandal. It is further averred that all the petitioners are agriculturists by profession and are eking out their livelihood from the income derived from the agriculture and that there is an existing 6 feet puntha road leading towards Gorsa Village, via Nagampeta, and the same is sufficient to cater the needs of the agriculturists. It is also averred that the 1st respondent released an amount of Rs.65 lakhs under Lila grant for repairs of existing road of Gorsa Village via

Nagampeta, Chitrada Road. It is the allegation of the petitioners that under the guise of undertaking repairs to the existing road of Gorsa Village via Nagampeta, Chitrada Road, the subordinates of the 1st respondent are marking through their lands for extending the existing 6 feet road to 30 feet road. It is the case of the petitioners that they made a representation on 09.01.2012 to the 4th and 5th respondents not to undertake the work without following due process of law and they also made a representation to respondent Nos.1 to 3 with the same request and to 3rd respondent vide letter, dated 09.01.2012, and he forwarded their representation to the 4th and 5th respondents. It is the specific allegation of the petitioners that on 30.05.2012, the subordinates of the 1st respondent visited their lands armed with procline and started excavating the land for extending the road and with great difficulty the petitioners could avert the same. The said action on the part of the respondents is under challenge in the writ petition.

This Court while ordering notice on 05.06.2012 passed interim order saying that if the proposed widening of the road to an extent of 30 feet towards Gorsa is running into the private lands of the petitioners, respondents are directed not to dispossess the petitioners from their private patta lands as otherwise than due process of law. No counter is filed resisting the averments of the affidavit.

Right to property is a constitutional right as enshrined under Article 300-A of the Constitution of India. It mandates 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 specific allegation of the petitioners that without recourse to law, the respondents have started laying the road through their private lands. If the lands of the petitioners are required for any public purpose, it is obligatory on the part of the respondent authorities to acquire the same by

following the procedure as contemplated under the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013, but cannot high handedly lay any road through the lands of the petitioners without following due process of law i.e., without paying any compensation.

For the aforesaid reasons, the Writ Petition is allowed directing the respondents not to undertake any activity including laying of road through the lands of the petitioners. However, this order will not preclude the respondents from proceeding in accordance with law.

Miscellaneous petitions, if any, shall stand closed. No order as to costs.

Date: 10.11.2016
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A.V. SESA SAI, J