

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.15503 OF 2012

ORDER:

Heard learned counsel for the parties.

The petitioners pray for the following relief:

“.. to issue an appropriate Order, Writ or Direction more particularly one in the nature of Writ of Mandamus under Article 226 of Constitution of India by declaring that the decision of the respondents 1 to 3 to construct a two way bridge over the Kakinada irrigation canal at 28.482 KM at Konkuduru village, Biccavolu (M) E.G.Dist under the approved scheme of Godavari Renovation package No 2 on Kakinada canal being guided by political influence and money power, by deviating from earlier design of the construction of the bridge, plan approval and decision taken at Public hearing on 31-3-2012 in the Konkuduru village, which was mostly accepted as feasible without causing much damage and loss to the public as well as petitioner's immovable properties along with properties of large number of people of the village and thus to prohibit the respondents from the deviated course of action in the interest of justice...”

The 2nd respondent filed counter affidavit. Today, at the time of hearing, learned Assistant Government Pleader basing on instructions submits that the construction of two-way bridge over Kakinada Irrigation canal at 28.482 KM at Konkuduru Vilalge, Biccavolu Mandal, East Godavari District is completed and the approach road to two way bridge remains pending. He draws the attention of the Court to the stand taken by 2nd respondent in paragraph 8 of the counter affidavit which reads as follows:

“The averment made by the petitioner that the earlier design for construction of bridge is deviated by political influence and money power, is not true. The work is being executed as per the original approved designs and drawings. The submission that public school would get damaged if new bridge is constructed is not correct and hereby denied. The school is not affected by the construction of the bridge. The further submission that most of the

petitioner building would get demolished, if factually in correct. It is submitted that no private land is being acquired for construction of the bridge. The bridge and the road are being laid only on the land belonging to the Irrigation Department. If there are encroachments found, they would be evicted, by following due procedure contemplated.”

Learned counsel for the petitioners submits that there are twin grievances for the petitioners in the instant writ petition viz. one is against the construction of a two-way bridge and another is with the formation of approach road to two-way bridge, the proprietary rights of petitioners and others would be affected. Even assuming that the stand taken in the counter affidavit is correct, according to him that should be treated as a reply filed by the Irrigation Department and it is not clear whether there is any proposal for acquisition of land of affected parties or not.

I have taken note of the categorical assertion of 2nd respondent and the alternative submission of learned counsel for the petitioners.

I am of the view that to the extent of construction of two-way bridge is concerned, since the construction is completed, the prayer as prayed for cannot be considered. The other aspect of the petitioners' grievance is on approach road and possibility of proprietary rights being affected. The petitioners, if have any grievance vis-à-vis proprietary rights of petitioners, they are free to avail the remedies in accordance with law. At present I do not see any cause of action to further proceed with the matter. With the above observation, the writ petition is disposed of. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

J

S.V.BHATT,

Date:23.02.2016

Stp