

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

WRIT PETITION No.5727 of 2016

ORDER:

The petitioner was the owner and pattedar of agricultural land admeasuring Ac.1-34 cents in Sy.No.53/6 and Ac.0-72 cents in Sy.No.53/9 along with other small extent of lands in Sy.No.129, Chinnakurabalapalli village Account of Kuppam Mandal, Chittoor District.

2. For the purpose of providing drinking water to the Kuppam people and to establish a Water Filter Point near Dalavai Kothapalli Tank, which is adjacent to petitioner's land, a meeting was conducted in the year 2000 by the District Collector, Chittoor. In that meeting, which was attended by petitioner and his mother, the District Collector and other local leaders requested the petitioner and his mother to give an extent of Ac.0-45 cents of land in Sy.Nos.53/6 and 53/9 respectively for establishing Water Filter Point to provide drinking water facility for the people of Kuppam Panchayat by assuring the petitioner that the Government will provide Ac.2-00 cents of land. Petitioner alleges that this site was promised to be given in the near the Model Colony, Kuppam and that the District Collector, immediately asked the Officials to provide Ac.2-00 of land to petitioner near the Model Colony, Kuppam.

3. According to petitioner, he and his mother went to the District Collector several times and requested for providing the said land but till date no alternative land has been provided to the petitioner. Petitioner contends that the action of respondents in taking possession of the petitioner's land without giving any alternative land or paying any compensation violates the petitioner's right guaranteed under Articles 14, 19, 21 and 300-A of the Constitution of India. The petitioner states that he has made several representations to respondents including those on 10-07-2015, 07-10-2015 and 09-11-2015, but there is no response from the respondents.

4. Counter affidavit is filed by 2nd respondent admitting that petitioner's land of extent Ac.0-45 cents was taken in the year 2000 for establishing Water Filter Point on condition to provide alternative agricultural land to petitioner to the tune of Ac.2-00 cents. But he contends that they offered to the petitioner Ac.2-00 of land at Kangundi Revenue village, which is located at a distance of 24 K.Ms. from Kuppam Mandal Head Quarters and that he had instructed the Additional Revenue Inspector and Mandal Surveyor, Kuppam to prepare the Sub-Division records so as to issue Dharkasthu patta to petitioner. It is also stated that the Sub-Collector, Madanapalle has requested the District Collector, Chittoor District to issue

suitable orders for taking further action on 29-02-2016 and in the meantime, the petitioner had filed this Writ Petition.

5. Reply affidavit is filed by petitioner to the said counter-affidavit stating that the land offered in the counter-affidavit of the

2nd respondent is at a distance of 24 K.Ms. from the Kuppam Head Quarters and situated in the midst of thick forest and it is impossible for the petitioner to cultivate the land by going there. He also stated that the land proposed to be allotted is barren and waste land and is uncultivable land. He reiterated that vacant Government lands are available near Model Colony, Chinnakurabalapalli village of Kuppam and respondents could have allotted those lands to petitioner so that he can conveniently put them to use. He declined to take the land in Kangundi Revenue Village offered by respondents and insisted that he be offered land near Model Colony of Chinnakurabalapalli village of Kuppam or in the alternative, prayed that compensation should be paid to him by taking the prevailing value as on date with damages from the year 2000 till the date of payment of compensation since respondents did not follow due process of law in taking away the land of petitioner.

6. From the narration of facts mentioned above, it is clear that petitioner was deprived of land of Ac.0-45 cents in Sy.Nos.53/6 and 53/9 by respondents for establish

Water Filter Point to provide drinking water facility to the people of Kuppam Panchayat on the assurance that Government would provide Ac.2-00 of land. While the petitioner contends that the land which was promised was to be located near Model Colony of Chinnakurabalapalli village of Kuppam, the 2nd respondent in his counter does not state that the promise was to provide Ac.2-00 of land at Model Colony, Kuppam, although he does not dispute the contention of petitioner that the petitioner was promised Ac.2-00 of agricultural land for the land which was taken from him. The land of Ac.2-00 offered by 2nd respondent in Kangundi Revenue village is not acceptable to petitioner on the ground that it is 24 K.Ms. away from Kuppam Mandal Head Quarters and is in the midst of thick forest and is uncultivable. Therefore the petitioner cannot be compelled to accept the said land against his wish.

7. In this view of the matter, there is no alternative except to direct the respondent Nos.1 and 2 to initiate proceedings for acquisition of Ac.0-45 cents of land in Sy.No.53/6 and 53/9 which belonged to petitioner and which was taken from the petitioner in the year 2000 under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the Act”).

8. Accordingly, the Writ Petition is allowed and the

respondents are directed to forthwith initiate proceedings under the provisions of the said Act for acquisition of petitioner's above land and complete the said process of acquisition including payment of compensation within four (04) months from the date of receipt of a copy of this order. Since the respondents have not acted on the promises made to the petitioner in the year 2000 till date and have offered to the petitioner in the year 2016 alternative land which is not acceptable to the petitioner, respondents shall pay costs of Rs.5,000/- (Rupees Five Thousand only) to petitioner within four (04) weeks from the date of receipt of a copy of this order.

9. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date:28-04-2016

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