

THE HON'BLE SRI JUSTICE S.V.BHATT

**WRIT PETITION Nos.10848, 10849, 10988, 10991, 10986,
10997, 15093, 15119, 15114, 15107 & 15099 OF 2016**

COMMON ORDER :

Heard Mr. Prakash.C, for writ petitioners and learned Government Pleader for Land Acquisition and learned Assistant Government Pleader for Irrigation.

2. The prayers in the batch of cases are substantially, same and similar. The details in W.P.No.10849 of 2016 would suffice the narration of all prayers and circumstances in the rest of writ petitions.

3. In W.P.No.10849 of 2016 the petitioner prays for the following relief :

“.....to issue Writ of Mandamus declaring the action of the 2nd and 3rd respondents are trying to dig the canal (HNSS Project Phase-II) without following due process of law in respect of the petitioners lands in Sy.No.32/6A an extent of Ac.0.23 cents, Sy.No.32/5C an extent of Ac.0.30 cents, Sy.No.32/5B an extent of Ac.0.30 cents, Sy.No.32/5A an extent of Ac.0.30 cents, Sy.No.32/4C an extent of Ac.0.185 cents, Sy.No.32/4B an extent of Ac.0.185 cents, Sy.No.33/1B4 an extent of Ac.0.41 cents, Sy.No.33/1B3 an extent of Ac.0.41 cents, Sy.No.33/1B2 an extent of Ac.0.41 cents, Sy.No.33/1B1 an extent of Ac.0.41 cents, Sy.No.33/1A4 an extent of Ac.0.23 cents, Sy.No.32/4D an extent of Ac.0.185 cents, Sy.No.33/1A3 an extent of Ac.0.23 cents, Sy.No.33/1A2 an extent of Ac.0.23 cents, Sy.No.33/1A1 an extent of Ac.0.23 cents, Sy.No.32/7C an extent of Ac.0.64 cents, Sy.No.32/7B an extent of Ac.0.64 cents, Sy.No.32/7D an extent of Ac.0.64 cents, Sy.No.32/7A an extent of Ac.0.64 cents, Sy.No.32/6C an extent of ac.0.23 cents, Sy.No.32/6B, an extent of Ac.0.23 cents, Sy.NO.32/6D an extent of Ac.0.23 cents and Sy.No.32/4 an extent of Ac.0.185 cents situated at Rajupeta Village, Ramakuppam Mandal, Chittoor District, is illegal, arbitrary, violation of principles of natural justice and consequently direct the 2nd and 3rd respondents not to interfere

in peaceful possession and enjoyment of the petitioners lands in Sy.No.32/6A an extent of Ac.0.23 cents, Sy.No.32/5C an extent of Ac.0.30 cents, Sy.No.32/5B an extent of Ac.0.30 cents, Sy.No.32/5A an extent of Ac.0.30 cents, Sy.No.32/4C an extent of Ac.0.185 cents, Sy.No.32/4B an extent of Ac.0.185 cents, Sy.No.33/1B4 an extent of Ac.0.41 cents, Sy.No.33/1B3 an extent of Ac.0.41 cents, Sy.No.33/1B2 an extent of Ac.0.41 cents, Sy.No.33/1B1 an extent of Ac.0.41 cents, Sy.No.33/1A4 an extent of Ac.0.23 cents, Sy.No.32/4D an extent of Ac.0.185 cents, Sy.No.33/1A3 an extent of Ac.0.23 cents, Sy.No.33/1A2 an extent of Ac.0.23 cents, Sy.No.33/1A1 an extent of Ac.0.23 cents, Sy.No.32/7C an extent of Ac.0.64 cents, Sy.No.32/7B an extent of Ac.0.64 cents, Sy.No.32/7D an extent of Ac.0.64 cents, Sy.No.32/7A an extent of Ac.0.64 cents, Sy.No.32/6C an extent of ac.0.23 cents, Sy.No.32/6B, an extent of Ac.0.23 cents, Sy.NO.32/6D an extent of Ac.0.23 cents and Sy.No.32/4 an extent of Ac.0.185 cents situated at Rajupeta Village, Ramakuppam Mandal, Chittoor District.....”.

4. The petitioners aver that the respondents while implementing HNSS Division-XII, Madanapalle are proposing to acquire several extents of lands in Rajupeta Village, Ramakuppam Mandal. The grievance of petitioners is that the respondents without recourse to law or putting petitioners on notice under Act 30 of 2013, are firstly trying to dispossess the petitioners from the petition schedule lands and such dispossession or denial of right of petitioners is arbitrary and unconstitutional.

5. This Court on 31.03.2016 protected the possession of petitioners as follows :

“There shall be interim direction to respondents not to dispossess petitioners from the subject land without following due process of law.”

6. The counter affidavits of the Joint Collector/2nd respondent and the Executive Engineer/3rd respondent are taken on record. The respondents by way of reply to the allegation of petitioners viz.,

without recourse to law steps are being taken to dispossess or deny right have stated thus :

“It is submitted that the averments of the petitioner that the personnel of the respondents entered into the petitioners lands and started marking and fixing stones without being any acquisition of land under Land Acquisition Act or any other Act for time being are not true. Further it is a false and baseless allegations that the officials of the 3rd respondent threatened them with dire consequences by stating that the 2nd respondent is permitted them to measure and fix stones in the petitioners lands. It is a false allegation as the officials of the 3rd respondent have not entered into the land with men & machinery except the demarcation in the field to arrive the actual alignment basing on the technical feasibility. There is no threatening to the petitioners or used force as alleged by the petitioners. It is a process of acquiring land and as per the due process. Unless, the department is surveyed the land the actual Sy.No. in which the canal passes through cannot arrived to take up Land Acquisition process by issuing Preliminary Notification.

It is submitted that the land pertaining to the petitioner which requires as per alignment will be acquired as per the provisions of the Land Acquisition Act duly following the Land Acquisition process and work of the excavation of canal will be taken up by the officials of the 3rd respondent only after payment of the compensation and also after handing over possession of the land.

In reply to Para No.7, 8 and 9 of the affidavit, it is submitted that, we have not enter into the land with men & machinery, except demarcation of canal alignment. The people of Rajupeta Village, Ramakuppam Mandal objected for L.A survey and stopped the work. The department will enter into the lands for canal excavation only after receiving possession from the L.A authorities duly following the L.A process. So far we have not entered into the fields for excavation of the canal as alleged by the petitioner & no damage was done to the existing standing crops. Hence, this is a false allegation.

In reply to Para : 10 & 11, of the affidavit it is submitted that, in the allegation of the petitioner stating that, the respondents are proceeding to dig canal at this stage is wrong, since, land acquisition process was not completed by the Revenue

Department. Until and the site handed over to this department digging of canal will not taken up.”

7. Learned Government Pleader, Land Acquisition, having regard to the stand taken by the Joint Collector in the counter affidavit submits that the possession or physical features of subject land in this batch will not be disturbed or changed except by following the procedure stipulated by law, particularly after paying compensation to the petitioners. The statement is placed on record, the writ petitions are ordered as follows :

(i) Interim orders granted in respective writ petitions, are made final orders in the writ petitions. The respondents are directed not to dispossess the petitioners from petition land or change the physical features, except by following procedure stipulated by law.

(ii) As the counter affidavits refers to initiation of land acquisition proceedings, the land acquisition officer is given liberty to proceed in accordance with law and complete the acquisition proceedings expeditiously. The petitioners are given liberty to raise objection, if any, against the proposed acquisition and the objections are considered in accordance with law.

There shall be no order as to costs. Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

S.V.BHATT,J

25th November, 2016
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