

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.9745 of 2017

ORDER:

The action of the 2nd respondent - Municipality in seeking to demolish the petitioner's property bearing D.No.17-1-222-1, Venugopal Nagar, Anantapur District, without following the procedure contemplated under law, is challenged in this Writ Petition.

In the affidavit filed in support of the writ petition, petitioner states that respondent No.2 – Municipality, despite earmarking Ac.35.00 in Sy.Nos.168-4 and 169-1 of Anantapur for the purpose of park, had not acquired the subject house and is threatening to demolish the building constructed by her. Petitioner states that she purchased the subject house from her vendor under sale deed dated 17.07.2015 and produced the same before this Court.

Heard Sri V.Sreemannarayana, learned Counsel for the petitioner, and Sri S.D.Goud, learned Standing Counsel for respondent No.2 – Municipality.

It is well-settled that no action adverse to an individual depriving his property rights can be taken without following due process of law as the same would be in violation of constitutional rights guaranteed under Article 300-A of the Constitution of India besides offending Article 14.

If the municipal authorities require the property of the petitioner for public purpose, the same can be done only in

accordance with the procedure prescribed under Section 174(1) of the Andhra Pradesh Municipalities Act, 1965 read with Section 42 of the Land Acquisition Act, 1894. Inasmuch as the Land Acquisition Act, 1894 has been substituted with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, it has to be read in.

In the facts and circumstances of the case, the action of the respondents in trying to interfere with the peaceful possession and enjoyment of the petitioner's property is unsustainable.

The Writ Petition is, therefore, disposed of with a direction to the respondents - authorities to follow the procedure prescribed under Section 174(1) of the A.P. Municipalities Act, 1965 read with Section 42 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 before proceeding with acquisition of the property of the petitioner. No costs.

Consequently, the miscellaneous Applications, if any shall also stand disposed of.

CHALLA KODANDA RAM, J

Date: 20.03.2017

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