

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.7298 of 2017

ORDER:

The action of the 2nd respondent Gudivada Municipality in seeking to demolish the petitioner's property bearing D.No.3/195 situated at Bantumilli Road, Gudivada Town, Krishna District, forcibly and without following the procedure contemplated under law, is challenged in this Writ Petition.

The petitioner claims to be the owner and possessor of the above said premises. According to her, the respondent Municipality has passed Resolution No.187 to widen the existing road of 40' from market Centre of Gudivada Town to Pedda Masjid Centre, Bantumilli Road and in that process, without following the procedure established under law, the respondent authorities have been trying to demolish her premises.

Heard learned counsel for the petitioner and Sri Nimmagadda Venkateswarlu, learned Standing Counsel for the 2nd respondent 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 the purpose of road widening, 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 and accordingly, the writ of Mandamus can be issued against the respondents.

The Writ Petition is therefore, disposed of with a direction to the respondents - authorities to follow the procedure prescribed in 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 the acquisition of the property of the petitioner. No costs.

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

CHALLA KODANDA RAM, J

03rd March 2017

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