

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.21966 OF 2012

ORDER:

The grievance of the petitioners is that they are the owners of the land situated in survey numbers 96, 97 and 89 of Pipri Village, Bazarhatnoor Mandal, Adilabad District. As far back as in 1980 by orders of the RDO dated 10.03.1980 the cart track leading from Pipri to Warthamannur, passing through Sy.Nos.96, 97 and 89, was directed not to be utilised and only the cart track passing through Pipri to Modi, touching Sy.No.97 was directed to be used. Since then, the petitioners had fenced the land in Sy.Nos.96, 97 and 89. Under the guise of strengthening the existing road with ITDA funds, respondents, without acquisition of land, had forcibly laid the B.T. road and thereby petitioners were deprived of their valuable right of property. Thus, there is a violation of Article 300-A of the Constitution of India.

2) A counter affidavit has been filed by the Executive Engineer, I.T.D.A., Utnoor. The principal assertion in the counter affidavit is that there exists a cart track for more than over 30 years in Sy.Nos.96, 97 and 89 of Pipri village leading to Warthamannur village and there is no new cart track has been formed. It is only on account of the availability of funds from the ITDA and at the request of the Panchayat, the Panchayat road was being strengthened by making it as a B.T. road. The allegation of the petitioners is that the road in Sy.Nos. 96, 97 and 89 was not being used has been categorically denied with a further assertion that the same is part of the village map, which is in existence from the Fasli 1343 and the same is passing through Sy.Nos.96, 97 and 89.

3) Having considered the arguments of the learned counsel for the petitioners and the learned Government Pleaders for respondents, there is an element of doubt and dispute with respect to whether a cart track is in existence for more than over 30 years or the same is not being used on account of the orders dated 10.03.1980, passed by the R.D.O., while disposing of C.C.No.231 of 1980 filed by the petitioner Nos.1 and 2, and the father of the petitioner No.5. In the circumstances, interest of justice would be served if the 3rd respondent is directed to conduct an enquiry and in the event it is found that the cart track has been laid, in spite of the fact that the road was not being used in Sy.Nos.89, 96 and 97 of Pipri village, necessary compensation may be ascertained and the same may be paid in accordance with law.

4) With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

5) Consequently, the Miscellaneous Petitions, if any pending, shall also stand closed.

CHALLA KODANDA RAM, J

Date:13.06.2017.

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