

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.19886 of 2017

ORDER:

This Writ Petition is filed by the petitioners under Article 226 of the Constitution of India seeking to declare the action of respondents in interfering with the petitioners' peaceful possession and enjoyment of their respective Rice mills/land constructed in an extent of 1) Ac.02.02 guntas & Ac.2.36 guntas in Survey Nos.340 & 340/5/A1 to A5, 2) Ac.3.00 in Survey No.333, 3) Ac.3.28 guntas & Ac.0.06 guntas in Survey Nos.326 & 323/E1, 4) Ac.06.04 7/24 guntas in Survey Nos.325/1A, 320/8, 320/A4, 324/1 & 320/9, 5) Ac.0.07 1/6 guntas, Ac.2.20 guntas & Ac.0.10 guntas in Survey Nos.324/A1, 326 & 325/1A, 6) Ac.8.25 ½ guntas in Survey Nos.329, 332, 328, 327, 330, 332, 333 and 7) the land Ac.4.31 guntas, Ac.2.19 guntas & Ac.01.37 guntas in Survey Nos.336, Survey No.335 & Survey No.339, situated on either side of Yadgarpalli Village road (via Kodada-Avantipuram-Miryalaguda) Miryalaguda Mandal, Nalgonda District, for the purpose of road widening of Yadgarpalli Village road (via Kodada-Avantipuram-Miryataguda), without giving any notice and without following the procedure, as illegal, arbitrary, unconstitutional and violative of Article 14, 19 & 300A of the Constitution of India and consequently, direct the respondents not to interfere with the petitioners' peaceful possession and enjoyment of respective Rice mills/land, in any manner.

2. Heard both sides and perused the material available on record.

3. The case of the petitioners is that the petitioners are in peaceful possession and enjoyment of their respective Rice mills/land constructed in an extent of Ac.02.02 guntas & Ac.2.36 guntas in Survey Nos.340 & 340/5/A1 to A5 (1st petitioner), Ac.3.00 in Survey No.333 (2nd petitioner), Ac.3.28 guntas & Ac.0.06 guntas in Survey Nos.326 & 323/E1 (3rd petitioner), Ac.06.04 7/24 guntas in Survey Nos.325/1A, 320/8, 320/A4, 324/1 & 320/9 (4th petitioner), Ac.0.07 1/6 guntas, Ac.2.20 guntas & Ac.0.10 guntas in Survey Nos.324/A1, 326 & 325/1A (5th petitioner), Ac.8.25 ½ guntas in Survey Nos.329, 332, 328, 327, 330, 332, 333 (6th petitioner) and the 7th petitioner, who is doing cultivation in land to an extent of Ac.4.31 guntas, Ac.2.19 guntas & Ac.01.37 guntas in Survey Nos.336, Survey No.335 & Survey No.339, situated on either side of Yadgarpalli Village road (via Kodada-Avantipuram-Miryalaguda) Miryalaguda Mandal, Nalgonda District. The main grievance of the petitioners is that the respondent authorities are proposing to widen the existing road to 100 feet wide road of Yadgarpalli Village (via Kodada-Avantipuram-Miryalaguda) Miryalaguda Mandal, Nalgonda District and that the respondent authorities are interfering with the petitioners' peaceful possession and enjoyment of their respective rice mills/land without issuing any prior notice or initiating any land acquisition proceedings as contemplated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, "the Act"). Hence, the present writ petition.

4. Learned counsel for the petitioners submitted that the normal procedure in the cases of widening the roads is that the land must be taken equally on both sides of the existing road of Yadgarpalli Village (via Kodada-Avantipuram-Miryalaguda) Miryalaguda Mandal, Nalgonda District, by following procedure of acquisition, but the respondent authorities are not following the procedure established by law.

5. Learned Government Pleaders appearing for respondent 1 to 5 submit that the allegations made by the petitioners are false. If really the petitioners are to be evicted, the respondent authorities would follow the due process of law and appropriate steps would be taken in accordance with law.

6. In the light of the submissions made by the respective counsel and in view of the admitted facts of the case that the petitioners are in possession and enjoyment of their lands, their possession shall not be interfered with by the respondent authorities without following due process of law as enjoined whether under the Act or in any other law.

7. Accordingly, the Writ Petition is disposed of directing the respondents not to interfere with the possession and enjoyment of the petitioners, except following due process of law. There shall be no order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.

RAJA ELANGO, J

Date: 20th June, 2017
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208**THE HONOURABLE SRI JUSTICE RAJA ELANGO****WRIT PETITION No.19886 of 2017**Date: 20th June, 2017

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