

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.9762 of 2017

ORDER:

The action of the 2nd respondent - Municipality in seeking to demolish the petitioner's property bearing D.No.25/524 situated at Kojjilipet, Machilipatnam, Krishna 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 had put markings to demolish his building for the purpose of road widening without following the procedure contemplated under the A.P. Municipalities Act.

Heard Sri T.V.Jaggi Reddy, learned Counsel for the petitioner, and Sri N.Venkat Rao, 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 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.

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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