

**HONOURABLE SRI JUSTICE RAJA ELANGO**

**WRIT PETITION No.20331 of 2012**

**ORDER:**

This writ petition is filed by the petitioners, under Article 226 of the Constitution of India, seeking to declare the action of the respondents in taking possession of the lands of the petitioners to the extent of Ac. 1.92 cents, Ac. 2.14 cents and Ac. 1.92 cents in Survey No.63 of Pandlapuram Village, Banaganapalle Mandal, Kurnool District, and laying Nandyal to Yerraguntla B.G. Railway Line, without following the due procedure contemplated under the Land Acquisition Act, 1894, as illegal and arbitrary and consequently direct the respondents to pay just and reasonable compensation for acquiring their lands by following the due procedure contemplated under law.

2. The case of the petitioners is that the petitioners are the absolute owners and possessors of the land to an extent of Ac. 1.92 cents, Ac. 2.14 cents & Ac. 1.92 cents respectively, in Survey No.63 of Pandlapuram Village, Banaganapalle Mandal, Kurnool District and that the petitioners have acquired the said lands from their ancestors, who were having title and possession over the subject property and that the petitioners have obtained pattadar passbooks and title deeds over the subject properties. It is further submitted that the respondents, without initiating any land acquisition proceedings, have acquired the lands of the petitioners for the purpose of laying railway track from Nandyal to Yerraguntla, without paying any compensation to the petitioners. It is further submitted that the petitioners have issued a legal notice to all the respondents on 01.05.2012, upon which the 1<sup>st</sup>

respondent forwarded a copy of the said legal notice to the 4<sup>th</sup> respondent for taking necessary action and the 2<sup>nd</sup> respondent vide his letter, dated 05.05.2012, has also addressed a letter to the 4<sup>th</sup> respondent, but the respondents have not taken any action in this regard in issuing a notification under the Land Acquisition Act enabling the petitioners to participate in the award enquiry to claim just and reasonable compensation. Aggrieved by the same, the present writ petition is filed.

3. The 2<sup>nd</sup> respondent, who is the District Collector & District Magistrate, Kurnool District, filed a counter affidavit contending that the question of initiating the Land Acquisition Proceedings under the Land Acquisition Act does not arise since the subject land in Survey No.63 of Pandlapuram Village, claimed by the petitioners, is not a patta land and that the petitioners are not assignees of the Assessed Waste (dots) lands in Survey No.63. It is further stated in the counter affidavit that the Land Acquisition proceedings have been initiated and reasonable compensation has also been paid to the land owners for the patta lands as per the award proceedings, but since the land in Survey No.63 claimed by the petitioners is not a patta land, no action has been taken for publication of notification of the land under Sections 4 & 6 of the Land Acquisition Act. It is further stated that the pattadar passbook and title deeds issued to the petitioners basing on the registered documents are irregular which are liable to be cancelled as the land in Survey No.63 is not a private patta land and the petitioners are not the assignees or legal heirs of the assignees and that the land in question is a Government land and that the petitioners are encroachers of the Government land and

that they are not entitled for any compensation and therefore, prayed the Court to dismiss the present writ petition.

4. Heard the learned counsel for the petitioners and the learned Government Pleader for the respondents and perused the material available on record.

5. The learned counsel for the petitioners contended that even after publication of notification under Sections 4 & 6 of the Land Acquisition Act was made, the petitioners have preferred an application to the respondents informing that the land which belongs to the petitioners is not included in the said notification and also claims title over the said property and that when such an application is pending before the respondent authorities, the 4<sup>th</sup> respondent shall consider the same to decide the ownership of the land.

6. When the matter came up for hearing, the respondents disputed the ownership of the petitioners herein and argued that the pattadar passbook and title deeds issued to the petitioners basing on the registered documents are irregular which are liable to be cancelled as the land in Survey No.63 is not a private patta land and the petitioners are not the assignees or legal heirs of the assignees.

7. Considering the said facts and circumstances and the submissions of the learned counsel for the petitioners and the learned counsel for the respondents, when there is a dispute over the title of the property, this Court is of the view that the petitioners can approach the concerned Court and file an

appropriate suit in order to establish their right over the subject property. Hence, this Court is inclined to pass the following order:

The petitioners are at liberty to approach the concerned Court and file an appropriate suit in order to establish their right over the subject property within a period of three (3) months from the date of receipt of a copy of this order.

8. With the above observation, the Writ Petition is disposed of. No costs. Pending Miscellaneous Petitions, if any, shall stand closed.

Date: 3<sup>rd</sup> March, 2017

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**RAJA ELANGO, J**



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