

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.11872 OF 2017

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, praying for the following relief:

“to issue writ or order or direction more particularly one in nature of Writ of Mandamus declining the high handed action of the respondents and the staff in trying to interfere into the petitioner agricultural land to an extent of Ac.17.54 cents (under Survey No.278/2A=Ac.4.80 cents and Sy.No.272/2B=Ac.12.74 cents) situated at Guravaigudem Village of Jangareddy gudem Mandal, West Godavari District, State of Andhra Pradesh is arbitrary, bad and illegal without issuing any notice, without following the procedure, and contrary to law and violation of principles of natural justice.”

2. Heard Sri Kuriti Bhaskara Rao, learned Counsel appearing for the petitioner, Sri R.Raghunandan, learned Senior Counsel, representing Sri T.Vinod Reddy, counsel on record for respondent No.2 and Sri N.Siva Reddy, learned Standing Counsel for respondent No.3.

3. According to the petitioner, he is the owner and title holder of land admeasuring Ac.17.54 cents situated in survey Nos.278/2A and 272/2B of Guravaigudem Village, West Godavari District. It is further stated that the subject land is covered by Mango tope, other seasonal trees and commercial crops like pulses. It is averred in the writ affidavit that respondent Nos.2 and 3 and their staff have inspected the subject land and asked the petitioner to vacate certain portion of the land on the ground that they wanted the said

land for laying 765 KV Double Circuit Transmit Line from Vemagiri to Chilakaluripeta.

4. According to the learned counsel for the petitioner, the said action on the part of the respondents is highly illegal, arbitrary and violative of Article 14 of the Constitution of India. It is further submitted by learned counsel for the petitioner that the respondents did not even issue notice to the petitioner informing about the proposed action. He further stated that the respondents are trying to install huge towers in the subject land unilaterally with heavy equipment. It is also the submission of learned counsel for the petitioner that in the event of towers being erected in the subject land, there is every possibility of damage to the crops existing on the subject land.

5. It is submitted by learned Senior Counsel, appearing for respondent No.2 that the issue in the present writ petition is no longer *res integra* and in fact, this Court in the case of **Devisetty Ramaswamy v. The Chief Engineer, 400 KV Line AP Transco (APSPDCL), Hyderabad¹**, categorically held against the petitioner therein and upheld the power of the respondents to proceed with the process of laying the power lines. In the said judgment, this Court took note of the principles laid down in the earlier judgment in the case of **G.V.S.Rama Krishna v. A.P.Transco, Rep.by its Managing Director, Vidyuth Soudha²**. In **G.V.S.Rama Krishna's case**, this Court categorically held that Section 164 of the Electricity Act, 2003 read with Section 10 of the Indian Telegraph Act, 1885, recognized the absolute power of the A.P. Transco to

¹ 2013 (4) ALD 88

proceed with placing of electric supply lines or electric poles for transmission of electricity on or over the private lands subject to the right of the owner/occupier to claim compensation if any damage is sustained by him by reason of placing of such electric supply lines. This Court further held neither the acquisition of the lands is necessary nor there is any need for consent of the owner or occupier.

6. In fact, in the above referred judgment, the learned Single Judge of this Court, while dismissing the similar Writ Petition, categorically held that there is no provision in the Act of 1885, which mandates prior notice or an opportunity of hearing to be provided to the owner/occupier of premises affected by the laying of lines or posts. This Court further observed that Section 17 postulates that such a right would arise only after laying the lines or posts and upon the failure of the authority concerned to act upon a requisition to remove or relocate such lines or posts etc.

7. During the course of hearing, a letter, dated 30.08.2016, addressed by the District Collector, West Godavari District, Eluru, is placed on record. A portion of the said letter, which is relevant for the present writ petition, reads as follows:

“Finally, the DGM, Construction Area Office, PSITSL, Nuzivid, has been requested to furnish their organization’s willingness to adopt the following mentioned rates immediately to this office for taking further action in the matter.

1. Payment of Tree/Crop compensation @ 4 times on the rate fixed as per the G.O.Ms.No.357, Revenue (LA) Department, Dated 23.03.2006, and for Eucalyptus tree @ an amount of Rs.4,400/- per MT.

² AIR 2009 AP 158 (1)

2. The land value in tower area is fixed at Rs.1,28,000/- lump sum.
3. If there are trees/crop exist in the lower area, value of trees/crop will be paid in addition, to the land value.

In the 4th reference 6th read above, the DGM, Construction Area Office, PSITSL, Nuzividu has conveyed their organization's willingness to adopt the above compensation rates and requested to issue necessary orders at the earliest, for implementation and disbursement of execution of works, for Laying of Vemagiri-Chilakalulripeta 765KV D/C Overhead transmission Line.

In the circumstances reported by the DGM, Construction Area Office, PSITSL, Nuzividu, it is hereby permitted to adopt the above tree values and land value fixed earlier in similar cases in respect of 400/220KV Substation at Kamavarapukota, for evacuation of power from M/s Hinduja National Power Corporation Ltd., (1040 MW) Power Plant and also in the case of 400 KV Twin Moose DC line from existing 400/220 KV Vemagiri Substation to 400/220KV Kamavarapukota Substation."

8. It is further submitted by learned Senior Counsel that the land value in the tower area will be paid immediately and the amount towards loss/damage of trees or crop will be paid after the same is assessed by the Revenue Authorities. It is further submitted by the learned Senior Counsel that only after elaborate survey of the area and also taking into consideration the various aspects, the alignment has been fixed. On the other hand, it is requested by the learned counsel for the petitioner that the petitioner will file a representation to the respondents herein for change of alignment, in which event, the same may be considered by the respondents herein.

9. For the aforesaid reasons, the Writ Petition is disposed of, directing the respondents herein to pay the land value covered by

tower area forthwith and to pay the damages/loss to the crop or trees, after the same is assessed by the Revenue authorities. It is open for the petitioner to make a representation to the respondents herein requesting for change of alignment, within a period of one week . If any such representation is made, it is open for the respondents herein to consider the same as per law within one week thereafter.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

APRIL 13, 2017
YVL



A.V.SESHA SAI, J

THE HON'BLE SRI JUSTICE A.V. SESA SAI



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Date: 13.04.2017

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