

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

WRIT PETITION Nos.26417, 27478 AND 29480 of 2017

COMMON ORDER:

Since the petitioners in all these writ petitions share similar grievance, this Court deems it appropriate to dispose of these writ petitions by way of this common order.

2. According to the petitioners, they are all working as scavengers in Tirupati Municipal Corporation, either on regular or on contract basis. They plead that they are in occupation of small extents of lands donated by one Sri Gurava Reddy, Ex.Chairman of Tirupati Municipal Chairman and they have constructed pukka houses and that the said houses are situated in survey Nos.414/1A, 414/1E1 and 414/2 of Tirupati Rural, Tirupati. Their grievance is that Municipal Corporation Authorities, Tirupati, in collusion with unofficial respondents i.e., respondent Nos.4 and 5 herein, are highhandedly attempting to dispossess them by demolishing their houses without showing any suitable accommodation in the name of constructing multi-storied apartments under Slum Development Urban Housing Programme. It is also alleged that the Municipal Corporation Authorities, Tirupati are threatening the petitioners for vacating the houses.

3. On the other hand, the case of the Municipal Corporation, Tirupati is that the lands, where the houses of the petitioners are situated, are neither the lands of Sri Gurava Reddy nor the petitioners and, as per the revenue records, the Municipal Corporation, Tirupati is the owner of the same and that the Tirupati Town is declared as a smart city by the Union of India and, in the said process, it is proposed to construct multi-storied apartments to

accommodate the poor people including the petitioners in the subject land and in furtherance of the said process, the petitioners were asked to vacate the lands so as to enable the Corporation to proceed further and that the petitioners and so many people have been identified for providing alternative accommodation till completion of the said project. It is also the case of the Corporation that all the workers including the petitioners have given their consent.

4. In the reply, the petitioners stated that forcibly they have obtained their consent and it not open for the respondents to press the same into service. According to the learned counsel for the petitioners the impugned action is highly illegal, highhanded and violative of Articles 14 and 21 of the Constitution of India.

5. On the contrary, it is submitted by the learned Standing Counsel for third respondent –Municipal Corporation that there is no illegality nor there exists any arbitrariness in the impugned action and that the petitioners are coming in the way of developmental activities undertaken by the Municipal Corporation under smart city programme. It is also submitted that all the proposed constructions are intended for the petitioners and similarly situated persons and pending execution of the construction, the petitioners and all other similarly situated persons have been shown the alternative accommodation.

6. In the above background, the issue that emerges for consideration of this Court is whether the petitioners are entitled for any relief from this Court under Article 226 of the Constitution of India.

7. There is absolutely no evidence on record, placed by the petitioners, to show that one Sri Gurava Reddy was the owner nor there is any evidence to show that he donated the lands to the petitioners or their forefathers. On the other hand, it is the specific case of the Municipal Corporation that as per the Government records, the subject land belongs to the Corporation. In the absence of any *prima facie* evidence, placed on record, this Court cannot appreciate the case of the petitioners on their right over the land, but the fact remains that the petitioners have given their consent and now say that the Corporation authorities have forcibly taken their signatures. In the considered opinion of this Court, having given consent, the petitioners cannot lay their claim for any relief in the present writ petition under Article 226 of the Constitution of India as the said aspect, touching the element of alleged coercion, if any, cannot be agitated nor can be adjudicated by this Court under Article 226 of the Constitution of India.

8. In view of the averments in the counter of the respondent Municipal Corporation as to providing alternative accommodation to the petitioners and as to the permanent accommodation after construction of the subject buildings to the petitioners, this Court does not find any merit in the writ petitions.

9. Accordingly, the writ petitions are dismissed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.V. SETHA SAI, J

Date: 05.09.2017
TJMR