

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.13474 OF 2011

ORDER:

The endorsement dated 07.02.2011, issued by the respondent requiring the petitioner to execute Registered Gift Deed in favour of the Gram Panchayat to the extent of petitioner's land, which is likely to be affected in the event of road expansion, is challenged before this Court

It is the case of the petitioner that the petitioner is the Cotton Mill and desired to establish a factory and install machinery and, therefore, made an application on 11.10.2010 to the respondent authorities. In turn, respondent while granting sanction on 07.02.2011 through the impugned endorsement, apart from directing to pay building permit fee of Rs.40,204/- had also imposed a condition to the petitioner to handover the road affected portion of land to the Gram Panchayat by way of Registered Gift Deed. Petitioner has no grievance for payment of the building permit fee as stipulated.

This Court while admitting the Writ Petition suspended the impugned endorsement dated 07.02.2011.

No counter affidavit is filed. However, learned standing counsel appearing for the respondent authority submits that in terms of G.O.Ms.No.168, dated 07.04.2012, petitioner would be entitled to the TDR bonds in lieu of compensation. It is also further submitted that the insistence for the execution of gift deed was made by the respondent authorities only on account of the G.O.Ms.No.168, dated 07.04.2012.

Having considered the respective submissions, the endorsement dated 07.02.2011 to the extent of requiring petitioner

to execute gift deed in favour of the Gram Panchayat is not sustainable. Giving a Gift Deed is a voluntary act and the same cannot be made as a condition for granting permission for carrying out the business or for making constructions as required under the Panchayat Raj Act or under any of the statutes. In the event the petitioner's land is required for expansion of the existing road, the same is required to be acquired by the State or by the state authorities by paying compensation, as otherwise the same would be violative of right guaranteed to the citizen under Article 300-A of the Constitution of India. In this context, the contention of the learned standing counsel for the respondent is that petitioner would be entitled to receive the TDR bonds in lieu of compensation. It may be noted that this Court had repeatedly held that it is the choice of the individuals to accept TDR bonds and if they are unwilling to accept the TDR bonds in lieu of compensation, the State authorities are required to compensate under the provisions of the Land Acquisition Act, 1894. It may also be noted that there is no such proposal made to the petitioner in the present case.

In the circumstances, Writ Petition is allowed setting aside the impugned endorsement dated 07.02.2011 to the extent of insisting the petitioner to execute a Gift Deed in favour of Ankireddypalem Gram Panchayat. No costs.

Consequently, the Miscellaneous Petitions, if any pending, shall stand closed.

CHALLA KODANDA RAM, J

Date: 28.06.2017.
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