

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.11583 of 2017

ORDER:

The action of the 2nd respondent - Municipality in insisting to vacate the petitioner from plot No.8 (Assessment No.1033000887), admeasuring Ac.0.02½ cents in Sy.No.865/1A1A2A1, Kandukuru, Prakasam District, for the purpose of public parking, without following the procedure contemplated under law, is challenged in this Writ Petition.

Petitioner claims to have been granted assignment patta in respect of the subject property by proceedings dated 25.03.2001 and is in possession since then. Petitioner states that the staff of respondent No.2 - Municipality visited the subject site and insisted to vacate therefrom as the subject property is required for public parking without acquiring the property either under the A.P. Municipalities Act, 1963 or the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).

Heard Sri A.Ramakrishna, learned Counsel for the petitioner, and Sri Nimmagadda Venkateswarlu, learned Standing Counsel for respondent No.2 - Municipality.

It is well-settled that no action adverse to an individual depriving his/her 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 public parking, 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 the provisions of 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 respondent No.2 – Municipality 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:10.04.2017
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