

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

WRIT PETITION No.3152 OF 2017

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue an appropriate writ, direction or order more particularly one in the nature of writ of Mandamus declaring the action of the respondents in proposing to acquire the petitioner's further lands in Sy.Nos.9/2 to 9/11 in addition to the lands proposed to be acquired under the Land Acquisition Notification, dt.19.10.2016 of the Ministry of Road Transport and Highways of Union Government for the purposes of construction of toll plazas and its allied constructions in the lands of the petitioner Trust though there are huge lands on the Northern side of the existing road available which are belonging to the government absolutely without any dispute and readily available without the necessity of paying any compensation or exgratia as illegal, arbitrary, unjust, malafide and against the statutory provisions and also the constitutional guarantees and to consequently direct the respondents not to acquire any lands of the petitioner Trust in Sy.No.9 for the purposes of construction of toll plaza and its allied constructions excepting the strict purpose of widening the existing road.”

2. Heard Sri K.Sarvabhuma Rao, learned counsel for the petitioner, learned Government Pleader for Land Acquisition

for respondents 2 and 5 to 8 and Sri S.S.Varma, learned standing counsel for the 3rd and 4th respondents.

3. Petitioner herein claims to be the owner of the property admeasuring 15.45 cents situated in Survey No.9 of Dukkavanipalem Village, Gambheeram Revenue Village of Anandapuram Mandal of Visakhapatnam District, having acquired the same in the year 2002. It is stated in the writ affidavit that earlier when the Revenue Authorities initiated proceedings under the provisions of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977, petitioner filed W.P.No.799 of 2005. It is submitted by the learned counsel for the petitioner that the said writ petition is still pending consideration.

4. The 1st respondent herein issued a notification under Section 3(A) of the National Highways Act, 1956, proposing to acquire the lands including the subject lands. The grievance of the petitioner, in the present writ petition, is that the private lands of the petitioner are shown as lands belonging to the Government in the said notification. The information available before this Court further discloses that after publication of the said notification, petitioner herein submitted its objections on 15.11.2016 under Section 3(C) of the said Act.

5. According to the learned counsel for the petitioner so also the learned standing counsel for National Highways, the

said objections are pending consideration before the 5th respondent – Special Deputy Collector. According to the learned standing counsel, since the objections are pending consideration before the 5th respondent, the present writ petition is premature and it is open for the petitioner herein to participate in the enquiry before the 5th respondent basing on the objections already submitted.

6. Having heard the learned counsel for the petitioner and the learned standing counsel for National Highways, this Court is of the considered opinion that the ends of justice would be served, if the 5th respondent – Special Deputy Collector, is directed to consider the objections of the petitioners as mentioned supra, as per Section 3(C) of the National Highways Act, 1956.

7. For the aforesaid reasons, this writ petition is disposed of, directing the 5th respondent to consider the objections of the petitioner, in accordance with law and pass orders after giving opportunity of hearing to the petitioner herein.

8. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

20.02.2017
SS