

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.15728 of 2017

ORDER:

The action of respondent No.2 (Commissioner, Ananthapur Municipal Corporation) in attempting to lay road through petitioner's land admeasuring Ac.0.64 cents in Sy.No.213-1, Ananthapur, without following due process of law, is questioned in this Writ Petition as being illegal and arbitrary.

The petitioner claims to be absolute owner of the subject land. She states that, in the process of road widening from Gooti to Bukkarya Samudram, respondent No.2 – Corporation is said to have marked petitioner's land for laying road. The grievance of the petitioner is that respondent No.2 – Corporation is trying to dispossess her from the subject land without following due process of law. Hence the writ petition.

Heard the learned Counsel for the petitioner and Sri M.D.Saleem, learned Standing Counsel for respondent No.2 – Corporation.

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 road widening, 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 provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).

In the facts and circumstances, the action of the respondent No.2 – Corporation in trying to interfere with the peaceful possession and enjoyment of the petitioner's land is unsustainable and, accordingly, mandamus be issued against respondent No.2.

The Writ Petition is, accordingly, disposed of with a direction to the respondent No.2 – Corporation to follow the procedure prescribed in Section 174(1) of the A.P. Municipalities Act, 1965 read with provisions of Act 30 of 2013 before proceeding with acquisition of land of the petitioner.

Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

CHALLA KODANDA RAM,J

Date: 27.04.2017
 usd

