

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

**WRIT PETITION Nos. 8435, 8440, 8450, 8520, 8540,
8543 of 2017**

COMMON ORDER:

The action of respondent No.2 (Commissioner, Nagar Panchayat, Rajam, Srikakulam District) in seeking to widen the Main Road (telaga street), Rajam Mandal, Srikakulam District, without following due process of law, is questioned in this Writ Petition as being illegal and arbitrary.

The petitioners, in all these Writ Petitions, claim to be owners of different extents of lands situated at Main Road (telagastreet), Rajam Mandal, Srikakulam District, and had constructed buildings thereat after obtaining necessary permission from the Gram Panchayat. Their grievance is that the staff of respondent No.2, without following due process of law, had put markings to the subject properties intending to widen the road to an extent of 80 feet. Hence the writ petitions.

Heard the learned Counsel for the petitioners and Sri Nimmagadda Venkateswarlu, learned Standing Counsel for respondent No.2.

It is well settled that no action adverse to an individual depriving his 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 petitioners 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 section 42 of the Land Acquisition Act, 1894. Inasmuch as the Land Acquisition Act, 1894 has been substituted with 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, the action of the respondents in trying to interfere with the peaceful possession and enjoyment of the petitioners' properties is unsustainable and, accordingly, mandamus be issued against respondent No.2.

The Writ Petitions are, therefore, disposed of with a direction to the respondent – authorities to follow the procedure prescribed in 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 properties of the petitioners.

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

CHALLA KODANDA RAM,J

Date: 10.03.2017
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