

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.2410 OF 2006

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to direct the respondents-authorities not to interfere with the petitioners' possession over the petition mentioned lands and cart track, without following due procedure under the Land Acquisition Act.

2. The case of the petitioners is that the 1st petitioner owns land admeasuring Ac.0.06 cents in survey Nos.115/1, 942; 2nd petitioner owns Ac.0.75 cents in survey No.927/1 & 2 and Ac.0.49 cents in survey No.27/4; 3rd petitioner owns Ac.1.01 cents in survey Nos.905/1 and 925/3; 4th petitioner owns Ac.0.45 cents in survey No.905/2; 5th petitioner owns Ac.1.10 cents in survey No.928/2, 3; 6th petitioner owns Ac.1.00 cents in survey No.925; 7th petitioner owns Ac.0.86 cents in survey Nos.928/3, 929; 8th petitioner owns Ac.1.40 cents in survey No.935/9 & 10; 9th petitioner owns Ac.0.96 cents in survey No.935/2 to 5; 10th petitioner owns Ac.0.49 cents in survey No.115/5; 11th petitioner owns Ac.0.64 cents in survey No.936/2 and 12th petitioner owns Ac.1.55 cents in survey No.920 of Gundigunta Village. Abutting to Vijayawada-Machilipatnam road, a canal by name Bandarukodu Kalva is in existence. At the south side of the said canal, the lands of the petitioners are located. For enjoyment of said lands, the ancestors of the petitioners set a cart track in between their lands and bund of the canal and since then the petitioners are using the said cart track. While so, on 30.01.2006 The Mandal Surveyor, Vuyyuru Mandal, and Deputy Surveyor

visited the lands of the petitioners and attempted to survey the lands and the cart track. Petitioners submit that they came to know that there was a move to assign the cart track and lands of the petitioners for providing house sites to weaker sections on the assumption that the cart track is a canal poramboke. They further submit that even if the said cart track is assumed to be a canal poramboke, the same cannot be assigned in view of prohibition under BSO-15. The action of the authorities is contrary to law and without invoking the provisions of Land Acquisition Act. Hence, this Writ Petition.

3. The 2nd respondent filed a counter, *inter alia*, contending that they visited the area covered by the cart track and canal poramboke, on the representation submitted by the villagers to measure the land. However, the petitioners and other villagers have not allowed the survey team to measure the area occupied by the cart track and canal poramboke. In fact, a decision was taken by the authorities not to allot the existing cart track to the houseless poor persons. It is further stated that if the lands of the petitioners are required for distribution of house sites to weaker sections, necessary proceedings will be initiated under the Land Acquisition Act. Thus, prayed to dismiss the writ petition.

4. Heard both sides and perused the material on record.

5. The main grievance of the petitioners in this writ petition is that the authorities are trying to assign the cart track, attached to their lands, as house sites to weaker sections, without following due process of law and for the said purpose the authorities on

30.01.2006 visited the subject lands and tried to survey the lands and cart track.

6. But, it is evident from the averments made in the counter affidavit that the authorities are not intending to acquire either the cart track or the lands of the petitioners for distribution of house sites to weaker sections.

7. In the above circumstances, the Writ Petition is disposed of directing the respondents not to dispossess the petitioners from their respective lands including cart track without following due process of law.

8. Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

12th December, 2017
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M.GANGA RAO, J

