

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.18598 of 2017

ORDER :

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

“to issue an appropriate writ, order or direction especially one in the nature of Writ of Mandamus, declaring the action of the respondents in encroaching upon the land owned by the 1st Petitioner i.e., to extent of Ac.0.09½ cents in R.S.No.229/ 2 of Kovvur Revenue Village, W.G.District without initiation of land acquisition proceedings and without payment of compensation as illegal and arbitrary and (2) declare the action of the respondents in taking possession of the land belongs to 2nd respondent and the 1st petitioner to an extent of Ac.0.09 ½ cents in R.S.No.229/ 2 of Kovvur revenue village, W.G.District, though the same is not form part of the 4(1) Notification in Poc.No.G4/ 8459/ 2011 (General), dated 12.12.2011 issued by the 2nd respondent for construction of Toll Plaza at 2nd Road bridge connecting East and West Godavari districts on river Godavari, as illegal and arbitrary and contrary to purport of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and consequently direct the respondents to initiate acquisition proceedings for the land encroached upon by the respondents which is owned by the 2nd and 1st petitioner in an extent of Ac.0.09½ cents in R.S.No.229/ 2 of Kovvur revenue village, W.G.district and pay compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 or in the alternative direct the respondents to conduct survey and demarcate the land owned by the petitioners and handover possession of the same, which is not covered by the Notification in Poc.No.G4/ 8459/ 2011 (General), dated 12.12.2011 issued by the 2nd respondent for construction of Toll Plaza of 2nd Road bridge connecting East and West Godavari districts on river Godavari and pass such other or further orders as are deemed fit and proper.”

Heard learned counsel for the petitioners, learned Government Pleaders for Land Acquisition, Revenue and Roads and Buildings appearing for respondents 1 to 5 and Sri S.S.Varma, learned Standing Counsel for respondent No.6 and perused the prayer in the writ petition with supporting affidavit and other material on record.

The subject land admeasuring Ac.0.09 ½ cents in R.S.No.229/ 2 of Kovvur revenue Village, West Godavari District, is not covered by the earlier order as part of the acquisition proceedings once cannot be disputed including from Section 4(1) notification in Rbc.No.G4/ 8459/ 2011 (General), dated 12.12.2011 under the Old Act, 1894 and also from exchange of notices and the reply of the 5th respondent-Executive Engineer(R&B), RDC Division, Rajahmundry, dated 01.04.2017, addressed to the counsel for the petitioners that the said extent of Ac.0.09 ½ cents out of 48 ½ cents is not part of the acquisition, but for, Ac.0.39 cents that was acquired for the 3rd Godavari Bridge connecting East and West Godavari, thereby, Ac.0.09 ½ cents proposed for acquisition for construction of Toll Plaza is pending at award stage and because of the writ petition, it could not be finalized.

Recording the same, the Writ Petition is disposed of directing the respondent-Authorities that any acquisition of Ac.0.09 ½ cents in R.S.No.229/ 2 of Kovvur revenue Village, West Godavari District is to be acquired only under due process of law and by payment of compensation. It is needless to say, if the petitioners still want demarcation, they can approach by virtue of this order the 4th respondent-Tahsildar to cause survey and demarcation.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed. No order as to costs.

Dr. B.SIVA SANKARA RAO J,

Date:04.07.2017
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