

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

WRIT PETITION No.2076 OF 2017

ORDER:

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

“to issue a Writ, Order or Direction, particularly a writ in the nature of mandamus declaring the action of the respondents 3 and 4 herein in attempting to erect concrete legs for laying of High Tension Lines from the petitioners' property an extent of Ac.0-70 cts. Covered under patta No.205, S.No.190/5 & an extent of Ac.0-17 cts. Covered under Patta No.205, S.No.190/11, and extent of Ac.0-59 cts. Covered under Patta No.182, S.No.190/3, and an extent of Ac.0-06 cts. Covered under Patta No.87, S.No.190/12, situated at Gandhavaram Grama Panchayat, Chodavaram Mandal, Visakhapatnam District without following due process of Law is illegal, arbitrary and violation of Principles of Natural Justice and Fundamental Rights under Article 300-A of Constitution of India and consequently direct the respondents 3 and 4 herein to follow the due process of Law by invoking provisions of the Land Acquisition Act for payment of compensation and to pass such other order or orders as this Hon'ble Court may deem fit just and proper in the circumstances of the case.”

2. Heard Sri K.Sai Rama Murthy, learned counsel for the petitioner and Sri N.Siva Reddy, learned standing counsel for the respondent company.

3. According to the petitioners, they own landed properties within the limits of Gandhavaram Grama Panchayat, Chodavaram Mandal, Visakhapatnam District and they are holding pattadar pass books in their favour.

4. The sum and substance of the case of the petitioners is that the respondent authorities, especially the respondents 3 and 4, without recourse to law, are attempting to erect concrete legs for laying of high tension lines through the properties of the petitioners' herein.

5. This Court, on 20.01.2017, while granting time at the request of the learned standing counsel for the respondents to obtain instructions, directed the respondents not to interfere with the possession and enjoyment of the subject property and extended the said interim order on 25.01.2017.

6. A counter affidavit deposed by the Assistant Divisional Engineer – 4th respondent herein is filed, on behalf of the respondents 3 and 4. A reading of the said counter indicates that there is absolutely no dispute as regards the title of the petitioners in the subject properties. It is stated in the said counter affidavit that the alignment of the towers of the proposed line was notified as long back as in the year 2012

and the same could not be changed for the convenience of the individuals; that the A.P.Transco would pay the compensation for the loss of crop and trees across the line and also the diminution value to the tower foundation area. Counter further denies the allegation of trespassing into the petitioners' lands by the respondents and it is stated that provision of law was wrongly mentioned in the notice and the said mistake occurred inadvertently. Counter affidavit further categorically avers that the respondents are prepared to withdraw the said notice and issue fresh notice with correct provision of law. It is further stated that the District Collector, Visakhapatnam, issued proceedings Rc.No.3114/2014/G1, dated 25.05.2015, fixing the compensation at Rs.1,60,000/- lump sum for the area covered under tower and that the respondents are ready to pay the compensation, as fixed by the 2nd respondent – District Collector, as per the proceedings dated 25.05.2015 and that the necessary approvals were granted by the competent authority of A.P.Transco in this regard and the work order has already commenced and nearly 303 towers foundations out of 360 in this line are completed. The said counter also refers to Section 10 of the Indian Telegraph Act, 1885.

7. It is pointed out by the learned counsel for the petitioner that the proceedings dated 25.05.2015, issued by

the District Collector, as mentioned in the counter affidavit have not been furnished to the petitioner herein. The learned standing counsel, on hearing the same, has submitted that the same will be furnished to the petitioner.

8. Having regard to the submissions made by the learned counsel for the petitioners and the averments made in the counter filed by the 4th respondent, the writ petition is disposed of, directing the respondents herein not to interfere with the possession and enjoyment of the petitioners' properties admeasuring Acres 0.70 cents, covered under patta No.205, S.No.190/5, Acres 0.17 cents, covered under Patta No.205, S.No.190/11, Acres 0.59 cents, covered under Patta No.182, S.No.190/3 and Acres 0.06 cents, covered under Patta No.87, S.No.190/12, situated at Gandhavaram Grama Panchayat, Chodavaram Mandal, Visakhapatnam District, except in accordance with law. It is further made clear that it is open for the respondents herein to proceed in accordance with law and as stated in the counter affidavit.

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

A.V.SESHA SAI, J

30.01.2017
SS

Note: issue C.C. in two days.
B/o.SS