

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

**WRIT PETITION No.38944 OF 2016**

**ORDER:**

This Writ Petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue an appropriate writ order or direction, particularly one in the nature of Writ of Mandamus declaring the action of the respondents in contemplating to widen the existing road 40’ feet to 80’ feet by demolishing the Houses/Mulgies of the petitioners H.Nos.12-129 and 12-128/1/1 situated at Gazwel Town and Mandal, Siddipet District for the purpose of widening the Road without prior Notice and without acquiring the properties as contemplated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act No.20 of 2013) is arbitrary, illegal, violative of Article 21 and 300-A of the Constitution of India.”

2. Heard Sri K.Govind, learned counsel for the petitioners and learned Government Pleader for Roads & Buildings for the respondents.

3. According to the petitioners, they are the owners and possessors of the houses and mulgies bearing H.Nos.12-129 and 12-128/1/1 situated at Gazwel Town and Mandal of Siddipet District, having purchased the same vide document Nos.3823/03 and 3824/03, dated 25.08.2003 and document No.1936/04, dated 05.03.2004. According to the petitioners, they constructed the houses after obtaining permission from the Gram Panchayat and paying the house tax regularly. It is further averred in the writ affidavit that the petitioners herein constructed the houses along with mulgies in the private lands. It is further stated that Government of Telangana proposed to widen by-pass road leading from Gazwel to Venkat Raopet from 40’ to 80’ feet road. It is alleged in the writ affidavit that without issuing any notice and without adhering to the procedure contemplated under Act 30 of 2013, the authorities are proceeding with the

process of widening of road by demolishing the constructions made by the petitioners herein.

4. According to the learned counsel for the petitioners, the impugned action is violative of not only the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act'), but also in total violation of principles of natural justice. It is further submitted by learned counsel for the petitioners that the impugned action of the respondents is also a patent violation of the constitutional right as guaranteed under Article 300-A of the Constitution of India, which mandates that no citizen of this Country shall be deprived of his/her property, except in accordance with the procedure established by law.

5. A counter affidavit deposited by the 3<sup>rd</sup> respondent-Executive Engineer (R & B) Division, Siddipet, is filed on behalf of respondents 1 to 4 stating that the petitioners' houses are situated on the main road adjacent to the road boundary of R&B Road. It is further stated in the said counter affidavit that the R & B Department measured the existing road from the centre of the road and made markings to identify the encroachment which falls within the road boundary. It is further stated that the said houses are not in private lands as per the R&B department norms. It is further stated in the counter-affidavit that if any private lands are necessary, this department will follow the procedure as contemplated under law and compensation will be paid for encroachments and no Land Acquisition proceedings are required.

6. To show *prima facie* right and possession over the subject property, the petitioners filed property tax receipts issued by the Nagar Panchayat Office, Gajwel, Pragnapur and also registered sale deeds. It is settled and well established proposition of law that no citizen of this Country shall be deprived of his/her property except in accordance with the procedure established by law as mandated under Article 300-A of the Constitution of India.

7. Having heard the learned counsel appearing for petitioners and the learned Government Pleader, and having regard to the documents filed by the petitioner herein, which show *prima facie* right in the property, this Court is of the considered opinion that ends of justice would be served if the Writ Petition is disposed of directing the respondents herein to follow the procedure established by law before resorting to any action.

8. For the aforesaid reason, this Writ Petition is disposed of, directing the respondents herein to issue notice and opportunity of personal hearing to the petitioners and proceed further with the matter in accordance with law. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

\_\_\_\_\_  
JUSTICE A.V.SESHA SAI

Date: 09.03.2017

KA/YVL

