

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.37381 of 2017

ORDER:

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

(a) declaring that the action of the Respondents in encroaching into the Petitioners land on southern side of an extent of Ac.3-50.2 cents of land equivalent to 16,949.680 Sq yards or 14171.62 Sq. yards in R.S.No.472 and 473 of Gunadala Village in Jawahar Auto Nagar, Industrial Estate, Vijayawada, in demolishing the compound wall on the northern side and in threatening to take further land of the Petitioners, without following any due procedure, without issuing any Notice and without acquiring it in accordance with law and without payment of compensation, as arbitrary, illegal, unjust as unauthorized and as contrary to the provisions and Rights guaranteed under the Constitution of India,

(b) declaring that the Respondents are liable for damages to the Petitioners in a sum of Rs.5 lakhs for their illegal and arbitrary action in encroaching into the Petitioners land, in damaging their compound wall due to which the petitioners suffered agony and hardship

and

(c) issue a consequential direction directing the Respondents herein not to interfere in any manner whatsoever with the Petitioners land, viz., extent of Ac.3-50.2 cents of land equivalent to 16,949.680 Sq yards or 14171.62 Sq yards in R.S.No.472 and 473 of Gunadala Village in Jawahar Auto Nagar, Industrial Estate, Vijayawada either for the purpose of widening the Bellam Vari Street connecting to National Highway No.5 or otherwise, and further direct the Respondent to pay the Petitioners a sum of Rs.5 lakhs as damages to the petitioners and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case."

(Reproduced verbatim)

2. Heard *Sri S.Satyanarayana Prasad*, learned senior counsel, appearing for the petitioners, and *Smt. G.Jhansi*, learned Standing Counsel appearing the 2nd respondent/Municipal Corporation.

3. Learned senior counsel appearing for the petitioners and the learned standing counsel appearing for the 2nd respondent Municipal Corporation are in agreement that the issue involved in the present writ petition is squarely covered by the common order, dated 05.10.2017, passed in W.P.nos.10950 of 2016 & batch. A copy of the above said order in the aforesaid batch of writ petitions is placed on record.

4. The above said batch of writ petitions was disposed of, following the decision of this Court, dated 01.09.2017, passed in W.P.no.16899 of 2016 & batch. The relevant portion of the order of this Court in the aforesaid batch of writ petitions reads as under:

“This Court is of the view that the Vijayawada Municipal Corporation is taking steps to negotiate with the stake holders firstly to cooperate for road widening and also inviting them for negotiations. Therefore, in the matter of road widening, it is for the parties to respond. If they are not inclined to accept the offers given either under G.O.Ms.no.168 or 119, it is needless to emphasize that the Vijayawada Municipal Corporation is required to follow the procedure prescribed by law for demolishing or dispossessing the occupants. In case of assigned plots, liberty is given to respondents to negotiate for allotment of plot/ accommodation to assignees and subject to such settlement between assignees and the Corporation road widening is taken by Corporation.”

5. Learned senior counsel would further request that while giving directions in terms of the orders in the aforesaid writ petition, a further direction may also be given to the 2nd respondent Municipal Corporation to consider and dispose of the representation, dated 20.02.2017, of the petitioners in strict accordance with the procedure established by law.

6. Having regard to the submissions, this Writ Petition is disposed of with the following directions:

i) The petitioners are at liberty to respond to the call of negotiation with the stakeholders by the 2nd respondent Municipal Corporation to cooperate for road widening and participate in such proposals/negotiations;

ii) However, if they are not inclined to accept the offers originally given under G.O.Ms.no.168, Municipal Administration, dated 07.04.2012, which is now superseded by G.O.Ms.no.119 MA & UD (M) Department, dated 28.03.2017, it is needless to state that the 2nd respondent Municipal Corporation is required to follow the procedure prescribed by law to acquire private properties/wakf properties for public purpose;

iii) However, as desired by the petitioners, while completing the above said exercises, the 2nd respondent Municipal Corporation shall consider and dispose of, in strict accordance with the procedure established by law, the representation, dated 20.02.2017, however, within a period of three weeks from the date of receipt of a copy of this order;

iv) Even in the event of failure of negotiations, no coercive action shall be taken till the properties are acquired in accordance with the procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

M. SEETHARAMA MURTI, J

Date: 12.12.2017
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