

**The Hon'ble Sri Justice M.Seetharama Murti**

**Writ Petition No.44117 of 2017**

**Dated 22.12.2017**

**Order:**

This Writ Petition is filed seeking the following relief:

“to declare the acts of the 2<sup>nd</sup> respondent herein in digging foundation in the plots bearing Nos. 163, 164, 149, 150, 151, 156, 157, 167, 168, 153, 154, 158, 160, 165, 166, 140 and 145, situated in Venkataramanapuram layout in Survey Nos. 12 (part), 13 (part) and 14 (part) of Salarjung Kanch / Kancha Parvatapur village, Peerjadiguda Municipality, Medipalli Mandal, Medchal - Malkajgiri District for the purpose of construction of dumping yard, without notice or initiation of proceedings under the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as illegal, arbitrary and unjust by issuing a writ, order or direction more particularly one in the nature of writ of mandamus and pass.”

(Reproduced verbatim)

Heard Sri M.V.Pratap Kumar, learned Counsel for the petitioner, and Sri N.Praveen Kumar, learned Standing Counsel for the 2<sup>nd</sup> respondent- Municipality. Perused the material on record.

The case of the petitioners is as follows:

“Petitioners herein are the absolute owners and possessors of plots bearing Nos.163, 164, 149, 150, 151, 156, 157, 167, 168, 153, 154, 158, 160, 165, 166, 140 and 145 situated in

Venkataramanapuram lay out in Survey Nos.12 (part), 13 (part) of Salarjung Kanch / Kancha Parvatapur Village, Peerjadiguda Municipality, Medipalli Mandal, Medchal-Malkajgiri District, having purchased the same under various registered sale deeds. The request of the petitioners for regularisation of the plots under lay out regularisation scheme is under process. While so, respondent No.2- Municipal authority, through its staff, started digging foundations in the plots belonging to the petitioners for the purpose of construction of a dumping yard for garbage. As no prior notice was issued to them and the procedure contemplated under law was not followed before starting such a highhanded activity, this Writ Petition is filed.”

The learned Standing Counsel for the 2<sup>nd</sup> respondent - Municipality would submit that the property in Survey Nos.10, 11 and 12 of Salarjung Kanch / Kancha Parvatapur Village, is a municipal property; that foundation is being dug for construction of a compound wall; that, the 2<sup>nd</sup> respondent-Municipal authority is entitled to make such constructions in its property; and that therefore, the petitioners are not entitled to any relief.

Learned Counsel for the petitioners, in reply, would submit that the property in Survey No.12 of Salarjung Kanch /Kancha Parvatapur Village, is a part of the petitioners' property

in the lay out. He would further submit that if a direction is given to the 2<sup>nd</sup> respondent – Municipal authority not to interfere with the petitioners' possession over the subject plots, the ends of justice would be met.

Recording the above submissions, the Writ Petition is disposed of directing the 2<sup>nd</sup> respondent- Municipal authority not to interfere with the petitioners' possession over the subject plots in any manner except by following the procedure established by law. This order will not preclude the 2<sup>nd</sup> respondent- Municipal authority from getting a survey conducted through the municipal surveyor, however, after giving prior notices to the petitioners and in their presence. Till the procedure as contemplated under law is followed, the 2<sup>nd</sup> respondent- Municipal authority shall not proceed with the further digging and construction activity in the subject plots.

As a sequel to disposal of the Writ Petition, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

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**(M.Seetharama Murti, J)**

**Dt: 22<sup>nd</sup> December, 2017**

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