

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

Writ Petition No 5999 of 2018

ORDER:

This Writ Petition is filed challenging the action of the respondents in carrying out preliminary survey and measurements over the vacant land of the petitioner to an extent of 406 square yards covered by Plots 9 & 10 in Survey Nos.122 and 123 situated at Chebrolu Village, Gollaprolu Mandal, East Godavari District during January-February 2018 without issuing any notice and without complying with the procedure prescribed in Sections 11 and 12 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act').

2. The case of the petitioner is that he is the owner of the above said vacant house site. The respondents are proposing to lay a cement concrete road and in that process, a preliminary survey was conducted and certain demarcations have been made. In the process of conducting survey, no notice has been issued to the petitioner, as required to be done in terms of Section 12 of the Act read with Rule 20 of The A.P. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014. Hence, the petitioner apprehends that the respondents would

lay the road by encroaching into his land, which is abutting the road. In those circumstances, the present Writ Petition is filed.

3. The learned Government Pleader for Revenue (A.P.) had placed on record the written instructions received from respondent No.3-Tahsildar, Gollaprolu, East Godavari District, which are as under:

“I submit that the Grama Panchayat, Chebrolu passed Resolution No.219 dated 23.03.2016 for construction of Cement Road from the house of Ponnada Surya narayana to the house of Cheppulla Trimurthulu. The Panchayat Secretary, Chebrolu requested this office to conduct Survey of the land and demarcate its boundaries stating that the road construction has to be completed immediately otherwise the funds granted in this regard will be lapsed.

I submit that the Mandal Surveyor, Gollaprolu conducted Land Survey and The Writ Petitioner's scheduled property is situated on the Southern side of the said cart track. In the survey conducted over the Government land proposed for construction of Cement Road, it is noticed that the Writ Petitioner encroached certain portion of Government Cart track Poramboke land and hence demarcated the encroachment portion with other boundaries of the land and shown to the Panchayat Secretary.

In view of the above, I submit that the contention of the Writ Petitioner that the survey conducted in his own land and if the land is required for construction of road, it is to be acquired under Land Acquisition Act by following due procedure of Law is not at all correct. The Cement road is proposed in the Government Land – Cart Track and the Writ Petitioner has encroached certain portion of the cart track by constructing compound wall. Hence there is no need to take up Land acquisition. I further submit that the contention of the Writ Petitioner in Para 5 of the Affidavit that the Tahsildar informed that higher authorities instructed her to acquire

his land for the purpose of constructing cement road replacing gravel road is far from truth as the land in which the Cement road is proposed is a cart track Government land and there is no need to acquire any land. I further submit that the encroachment portion of the Government land by the writ Petitioner was shown to the Panchayat Secretary and the eviction of the encroachment will be taken up as per the procedure prescribed under Land Encroachment Act.”

4. Having considered the respective submissions and having perused the pleadings as well as the above written instructions, as on date, it is a fact that the survey has already been conducted and certain demarcations have been made. In that view of the matter, though the complaint of the petitioner appears to be genuine and justified, since the survey has already been completed, the same by itself, in any way, will not cause any prejudice to the petitioner, except in case where his land is affected in the process of demarcation. Considering the fact that the petitioner is the owner of the land abutting the road, if cement concrete road is proposed to be laid, in all fairness, he should be put on notice before undertaking the work. If any of the property is required to be acquired and in the process if the petitioner's property is getting affected, the respondents shall not carry out the work without initiating proceedings for acquisition of that portion of land.

In the circumstances, by making it clear that the petitioner's land, in any manner, shall not be interfered without following due process of law, this Writ Petition is disposed of and that the petitioner shall be put on notice before laying the road and before making the markings. No order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

27.02.2018
MVA

CHALLA KODANDA RAM, J

