

HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.8922 of 2018

ORDER:-

Heard learned Counsel appearing for the petitioners and Sri S.S.Varma, learned Standing Counsel appearing for respondents No.1 to 3 and the learned Government Pleader for R.4.

In the present Writ Petition, challenge is to the action of the respondents in issuing notification in Schedule III under Section 26 (2) of the Control of National Highways (Land and Traffic) Act, 2002 published on 10.03.2018 in Andhra Jyothi Telugu Daily.

According to the petitioners, they are the residents of Rayachoty Town living along the National High Way-40 and owned and possess urban building and site properties on main road side in Kadapa Municipal Corporation limits and the said properties are situated in Sy.Nos.11/2 and 11/2B of Kadapa Municipal Corporation limits. It is further averred in the writ affidavit that the petitioners have absolute title over the properties and have been living with their families in the said houses and transacting their respective business to eke out their livelihood. Earlier, the petitioners herein approached this Court by way of filing Writ Petition in W.P.No.28845 of 2017 and this Court on 29.08.2017 in WPMP No.35884 of 2017 passed an interim order directing the respondents not to meddle with the private properties of the petitioners except in accordance with

law while making it further clear that the respondents are entitled to undertake the work by following due process of law.

Now the National Highway Authority issued the impugned notification on 10.03.2018 under Section 26 (2) of the Control of National Highways (Land and Traffic) Act, 2002 asking the petitioners herein to file their objections, if any. It is averred in the writ affidavit that the petitioners herein have submitted their objections on 12.03.2018 by Registered Post to the 3rd respondent-authority at Vijayawada, due to paucity of time and the petitioners also approached the Office of the 4th respondent and tried to submit the same and initially the said Officer refused to receive the same initially but copy of the same was submitted in the Inward Section and acknowledgment was also given by the Office of the 4th respondent. It is further stated in the writ affidavit that on 13.03.2018 when the petitioners herein went to the Office of the 4th respondent, they were informed that the enquiry was postponed and the necessary information as to the next date of hearing would be intimated later. It is further stated that to their shock and dismay, on 15.03.2018 the petitioners herein came to know that the respondent-authorities are planning to go ahead with the demolition activity this weekend so as to ensure that the petitioners herein would not take recourse to the legal remedies. According to the learned Counsel appearing for the petitioners the said action of the respondents is highly illegal and arbitrary and violative of Articles 14 and 300-A of the Constitution of India.

On the other hand, it is submitted by Sri S.S.Varma, the learned standing Counsel appearing for respondents No.1 to 3 and the learned Government Pleader appearing for respondent No.4 that the respondents herein will adhere to the provisions of the above said enactment and would take further action strictly in accordance with law.

Since the objections of the petitioners herein are pending consideration and no final orders have been passed so far, this Court deems fit and proper to dispose of the Writ Petition directing the respondents to take into consideration the objections submitted by the petitioners herein and take further action strictly in accordance with law after giving opportunity to the petitioners herein. Till the final orders are passed, no coercive action against the subject property shall be taken. It is also open for the petitioners herein to file additional material papers, additional documents and additional grounds, if any, within a period of one week.

The Writ Petition is disposed of accordingly. Miscellaneous petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

A.V.Sesha Sai, J

Date: 16.03.2018
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