

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.27555 OF 2008

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners requesting to issue a Writ of Mandamus declaring the action of the respondents in attempting to dispossess the petitioners from the property/house building bearing H.No.1-383/2 & 3 admeasuring 400 Square Yards situated at Narsampet Village and Mandal, Warangal District, without following the due process of law and without acquiring the said property or any part thereof, as contemplated under the provisions of the Land Acquisition Act, 1894 (for brevity, 'the Act') or any other law as illegal, arbitrary, high handed and violative of fundamental and constitutional rights guaranteed under Articles 21, 31-A and 300-A of the Constitution of India and consequently direct the respondents to follow the procedure established by law in the event, the subject property of the petitioners or any portion thereof is required for any public purpose and the petitioners are to be dispossessed from their property for the said public purpose.

2. I have heard the submissions of the learned counsel for petitioners and of the learned Government Pleader for Irrigation and CAD.

3. The case of the petitioners is this:

"The petitioners are the lawful owners in possession of the above said subject property. During the first week of December, 2008, the subordinates of the respondents along with revenue officials and surveyor visited the subject property and the properties of the neighbouring land owners and started surveying the same. When the petitioners

questioned the same, they were informed that part of the subject property of the petitioners and several other properties are required for the purpose of Madhannapet Pedda Kaluva. Thereafter, the petitioners made enquiries and came to know that the Irrigation Department has got sanction for extension of Kaluva by another 20 – 30 feet and that in the said process, a contractor was also awarded work. On 10.12.2008, some workmen, who claimed to have been appointed by the said contractor, came to the site and demanded the petitioners to vacate, within two days, their property to the extent of requirement for the said work. Hence, in the said circumstances and as the petitioners have no other alternative remedy, the Writ Petition is filed.”

4. At the hearing, learned counsel for the petitioners reiterated the pleaded case of the petitioners.

5. Learned Government Pleader for Irrigation appearing for the respondents, on written instructions, a copy of which is placed on record, submitted that the petitioners occupied a portion of the canal land; that the said occupation is illegal; that in view of the said fact, the Government are taking steps in accordance with the procedure established by law for recovery of possession of the canal land; that in the circumstances, the petitioners' claim that they are entitled to contend that they cannot be dispossessed, unless the subject property is acquired in accordance with the old procedure, is baseless; and, that in that view of the matter, the Government will take steps for removal of the petitioners from the subject property, which is a canal land, by following the procedure established by law.

6. Having regard to the submissions and without adverting to the merits of the contentions of the parties, the Writ Petition is disposed of directing the respondents not to interfere with the possession and enjoyment of the petitioners over the subject property, except by following the procedure established by law.

There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

September 12, 2018
MD

M.SEETHARAMA MURTI, J

