

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

Writ Appeal No.540 OF 2018

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.1988 of 2018 dated 15.02.2018. The appellants herein filed the writ petition seeking a mandamus to declare the action of the official respondents in permitting the 6th respondent, a private contractor, to illegally take possession of their land of an extent of Ac.3.03 guntas in Survey No.104 of Vатtem Village, Bijinapally Mandal, Nagarkurnool District, without following the due process of law, as arbitrary, illegal, unconstitutional, against principles of natural justice, apart from being violative of Article 300-A of the Constitution of India.

In the order under appeal, the Learned Single Judge observed that, while the appellants-writ petitioners had alleged that their lands were under excavation by the 6th respondent, their remedy was to approach the competent Civil Court against the illegal interference and enjoyment or altering the structure of the property without their consent.

Sri Satyam Reddy, learned Senior Counsel appearing on behalf of the appellants-writ petitioners, would point out, in our opinion rightly so, that the State cannot forcibly dispossess the appellants-writ petitioners from their lands for the purpose of construction/execution of an irrigation project, without acquiring their lands in accordance with law; and the appellants-writ petitioners are entitled to invoke the jurisdiction of this Court, under Article 226 of the Constitution of India, questioning such acts of the Government.

The appellants-writ petitioners had specifically alleged in the writ affidavit that personnel, of the 6th respondent-a private firm, had illegally taken possession of their lands; no proceedings for land acquisition were initiated let alone compensation being paid; and they were illegally dispossessed from their land of an extent of Ac.3.03 guntas. The appellants-writ petitioners have also asserted that the 6th respondent was executing a project work for the State Government and neither he nor the State Government have *locus* to take possession of their lands without the official respondents initiating and completing land acquisition proceedings.

Article 300-A of the Constitution of India stipulates that no person shall be deprived of his property save by authority of law. The law, which confers power on the State Government to take over private patta lands, is the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. If, as is asserted in the writ affidavit, the appellants-writ petitioners are being illegally dispossessed of their lands, by the 6th respondent-a contractor executing works for the State Government, their constitutional right, not to be deprived of their property save by authority of law, has been violated; and they are entitled to invoke the jurisdiction of this Court under Article 226 of the Constitution of India seeking its protection from violation of their constitutional right under Article 300-A of the Constitution of India.

We may not be understood to have expressed any opinion on the appellants-writ petitioners' assertions, in the writ affidavit, on merits or on their claim to have been illegally dispossessed from their lands, as these are all matters for the Learned Single Judge to examine.

The order under appeal is set aside, and the Writ Petition is restored to file. Learned Government Pleader for Revenue (TG) would

submit that a counter-affidavit would be filed in the writ petition within two weeks from today. It is open to the learned counsel for the appellants-writ petitioners to request the Learned Single Judge to take up the matter any day after two weeks. We have no reason to doubt that, on such a request being made, the Learned Single Judge would give such request its consideration.

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

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

02nd April, 2018

Note: Issue C.C tomorrow.

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