

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.5599 OF 2005

ORDER:

This writ petition is filed for the following relief:

“... to issue an appropriate order, direction or a writ more particularly one in the nature of a writ of Mandamus declaring the action of the respondents in issuing the Notification under Section 48(1) of the Land Acquisition Act dated 27.9.2002 published in A.P.Gazette Part-I Extraordinary, withdrawing the lands bearing Sy.No.208/1C measuring Ac.3.00, situated in K.Markapuram Village of Kallur Mandal, Kurnool District of the petitioners from acquisition as arbitrary, illegal and without jurisdiction and quash the same and consequently direct the respondents to re-notify and pay compensation as per the provisions of the Land Acquisition Act.”

2. It is the case of the petitioners that they are the absolute owners of agricultural lands admeasuring Ac.0-75 cents each in Sy.No.208/1C of Markapuram Village, Kallur Mandal, Kurnool District and they have been cultivating the said lands. While so, the respondents have taken possession of the lands of the petitioners, without following due process of law as envisaged in the Land Acquisition Act, 1891, dug therein upto a depth of 10 feet and gravel has been removed from the subject lands for the purpose of formation of balancing of a reservoir. By virtue of digging and removing the gravel, the lands of the petitioners have become unfit for conducting agricultural operations.

3. The learned Government Pleader for Land Acquisition vehemently opposed and argued that the petitioners are not entitled for any relief, as the Government has not taken possession of their lands and it is the responsibility of the contractor who has excavated the gravel, in pursuance of clause (4) of the letter No.EE/MD4/KNL/Supdt./204M, dated 24.04.2002, of the second respondent.

4. It is apparent from the record placed by the Government Pleader for Land Acquisition that the lands acquired in Sy.No.208/1D2 of Markapuram Village, Kallur Mandal, Kurnool District were compensated by making payment in lieu of the gravel excavated, but the respondents did not make any payment to the petitioners for the gravel excavated in their lands. It is seen from the record that as per clause (4) of the letter No.EE/MD4/KNL/Supdt./314M, dated 28.06.2002, of the second respondent, the responsibility to procure the land for gravel is on the Department, but not on the contractor.

5. In view of the above, since the land of the petitioners is made unfit for cultivation, it is the choice of the respondents to make fit the lands for agriculture purpose by filling the excavated area to the satisfaction of the petitioners or alternatively to pay the compensation for the excavated portion by initiating the proceedings in treating the case of the petitioners on par with the owners of land in Sy.No.208/1D2. The said exercise shall be completed within

a period of three months from the date of receipt of a copy of this order.

6. Accordingly, the writ petition is disposed of. No costs. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 19.01.2018
TJMR

