

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION NO.2044 of 2007

ORDER :

This Writ Petition is filed by the petitioners seeking to declare the action of respondents in granting house site pattas in favour of 27 beneficiaries including respondents 5 to 9 as arbitrary and illegal. A consequential direction was sought to direct the respondents not to dispossess the petitioners from the land admeasuring Ac. 1.10 gts. in Sy. No.424, situated at Narsapur Village, Siddipet Mandal, Medak District. An alternative prayer was made to pay compensation as per the present market value for the Petitioners' land to the extent of Ac.1.3 guntas used for laying of road in Sy.Nos. 1044, 1295 and 1296 of Narsapur Village, Siddipet Mandal, Medak District.

2. Brief facts of the case, according the petitioners are that the petitioners are brothers and owners of land admeasuring Ac. 8.00 in Sy.Nos 1044, 1295 and 1296, situated at Narsapur village, Siddipet Mandal; in the midst of said lands there is an extent of Ac.1.10 guntas of land in Sy.No.424, which is in occupation of the petitioners and their late father for more than 50 years; therefore, they made a representation to the Mandal Revenue Officer, Siddipet, seeking assignment of the said land; as there is no response, the petitioners have filed W.P.No.8829 of 1995 and the same was withdrawn later on, on the assurance given by the authorities that they would consider the allotment of the land Ac.1.10 guntas in Sy.No.424 of Narsapur Village; in 2001 when the respondents started laying an approach road through their village to Rajiv Rahadari through the patta land of the petitioners in Sy.No. 1044, 1295 and 1296, the petitioners objected the same; the local M.L.A. and R.D.O. promised the petitioners that the land admeasuring Ac.1.10 gts. in Sy.No.424 would be allotted to them free of cost in lieu of land, which is used for laying of

the road; the said land was taken over by the Government without paying any compensation; the petitioners made several representations to assign land in Sy.No.424 and when the said representations were not considered, they filed Writ Petition No.23004 of 2004; the said Writ Petition was disposed of on 13.12.2004, observing that ***“in case the petitioners are in possession of the said land, they shall not be evicted except following the procedure prescribed by law.”*** ; the petitioners again filed a Writ Petition No.26378 of 2005, the same was disposed of on 13.12.2005, directing the officials to pass orders on the representation made by the petitioners on 03.06.2005; when the official respondents were trying to dispossess the petitioners, the petitioners again filed a Writ Petition No.6756 of 2006; the said Writ Petition was disposed of on 06.04.2005 with some observations; again the petitioners filed a representation on 11.07.2006, on 12.12.2006 R.D.O. directed M.R.O. to enquire into the matter and submit a report ; M.R.O. submitted a report stating that the Panchayath Raj Department had laid approximately 1.05 kms length of metal link road connecting Rajiv Rahadari with Agriculture Market Committee, Siddipet; the petitioner also produced revenue receipts in respect of Sy.No.424 paid by his father; in this report, the M.R.O. also stated that house site pattas were granted to 27 beneficiaries between the period from 09.12.2005 to 25.12.2006; again on 25.01.2007, the Revenue Divisional Officer addressed a letter to the Executive Engineer, Panchayat Raj to offer his remarks with regard to laying of the road through the land of petitioners in Sy.Nos.1296, 1044 and 1295 to an extent of Ac.1.3 guntas. According to the report of the M.R.O, the petitioners are in possession of the land for more than 30 years and hence they are entitled for assignment of the said land in Sy.No.424.

3. Counter Affidavit has been filed by the unofficial respondents 6 to 9, stating, *inter alia* that the said land in Sy.No.424, admeasuring an extent of

Ac.1.10 guntas is not situated in the middle of the lands of the petitioners and that, in fact, it is adjacent to the lands of the petitioners.

4. Counter Affidavit has been filed by the 3rd respondent – Mandal Revenue Officer, stating that Revenue Department is not concerned with laying of the roads as alleged by the petitioners; representation dated 03.06.2005 submitted by the petitioners, seeking assignment of land, discloses their residential address as H.No.8-2-124, near old bus stand, Siddipet Town, which clearly shows that they are not residents of Narsapur and hence they are not eligible for the assignment; representation of the petitioners dated 03.06.2005 was disposed of by the Tahsildar, Siddipet rejecting their request on 03.01.2006; during routine correspondence the matter was reported to Executive Engineer, Panchayat Raj; in response to that the Executive Engineer stated that no assurance was given to the petitioners with regard to the said land.

5. Heard learned counsel for the petitioners, counsel for the unofficial respondents and learned Assistant Government Pleader.

6. Main contention of the petitioners is that the subject land admeasuring Ac.1.10 guntas in Sy.No.424 is situated in the middle of the land of the petitioners and that they are entitled for assignment of the said land.

7. Learned Government Pleader also filed endorsement dated 03.06.2005, issued by the M.R.O., Siddipet, rejecting the request of the petitioners to issue a patta certificate. As seen from the said endorsement, notice was given to the petitioners to submit documentary evidence, if any, in support of their claim. Pursuant to the said notice, the petitioners did not submit any documentary evidence. The endorsement also clearly shows that the petitioners are neither Lavoni Pattadars nor they are in possession of the land. No reply affidavit has been filed by the

petitioners, denying the averments made in the counter affidavit by the M.R.O. and other unofficial respondents. The request of the petitioners to grant patta certificate for an extent of Ac.1.10 gts in Sy.No. 424 at Narsapur Village has already been rejected by the M.R.O. by proceedings dated 03.01.2006 and the same is not challenged by the petitioners.

8. So far as the alternative prayer of the petitioner is concerned, to pay compensation under the Land Acquisition Act is concerned, the said road was laid by the Gram Panchayat in the year 2001. Admittedly, the petitioner did not make any representation seeking compensation for the land acquired, as the petitioners were relying upon the alleged promises made by the then M.L.A. promising assignment of the Government land in Sy.No.424. The petitioners did not even protest when his land is allegedly acquired by the authorities in the year 2001. For seeking compensation for the lands acquired, the petitioners ought to have pursued their remedies under the provisions of Land Acquisition Act. However, the petitioners are given the liberty to avail their remedies which are available under law. So far as grant of patta is concerned, as the request of the petitioners was already rejected by the M.R.O., Siddipet on 03.01.2006, the Writ Petition is liable to be dismissed.

9. In the result, the Writ Petition is dismissed. No orders as to costs. The Miscellaneous petitions pending, if any, shall stand closed.

KONGARA VIJAYA LAKSHMI,J

Date: 25.07.2018

JR

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI



WRIT PETITION NO.2044 of 2007

25th July, 2018

JR