

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.20966 OF 2018

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners seeking verbatim the following relief:

“to issue an order or direction, one in the nature of writ of Mandamus,

i. declaring the Section 3A notification S.O.1510(E) dated 05-04-2018 published on 24.4.2017, published for acquisition of land in so far as the Land in Sy.No.485/1 admeasuring 931 sq.mtrs; Sy.No.486/1 - 2327 sq.mtrs; Sy.No.485/2 - 4002 sq.mtrs; Sy.No.487 - 1862 sq.mtrs; Sy.No.488/2 - 465 sq.mtrs; Sy.No.489 - 7912 sq.mtrs and Sy.No.490 - 2327 sq.mtrs, total area admeasuring 19826 sq.mtrs i.e., Ac.4.90 cents belonging to the 1st petitioner, and land in Sy.No.463/1 admeasuring 1396 sq.mtrs; Sy.No.465/11 - 2392 sq.mtrs; Sy.No.465/2 - 1396 sq.mtrs; Sy.No.465/5 - 1136 sq.mtrs; Sy.No.465/6A - 1396 sq.mtrs; Sy.No.465/7A - 1629 sq.mtrs; Sy.No.465/7B - 1675 sq.mtrs; Sy.No.465/8 - 1862 sq.mtrs and Sy.No.520/2 - 6981 sq.mtrs, total area admeasuring 20263 sq.mtrs i.e., Ac.5-00 cents belonging to the 2nd petitioner, All lands situate at Mittapalem Village, Chandragiri Mandal, Chittoor District, are concerned for laying of NH-71, as illegal, improper, and unjust and violative of Article 300-A of the Constitution of India and also violative of principles of natural justice and in utter violation of section 3C of the Act, and consequently to set-aside the same; and

ii. Declare the endorsement issued by the 3rd respondent vide Rc.NH71/3/2018 dated 28.05.2018, as illegal and passed contrary to the procedure contemplated under Section 3C(2) of the NHAI Act;

iii. and pass such other order or orders as this Hon'ble Court may deem fit and proper.”

2. I have heard the submissions of Sri P.Gangaiah Naidu, learned senior counsel appearing for the petitioners, of Sri K.Lakshman, learned Assistant Solicitor General, appearing for the

1st respondent; of learned Government Pleader for Land Acquisition (A.P.) appearing for the 3rd respondent; and, of Sri S.S.Varma, learned Standing Counsel appearing for the respondents 2 and 4. I have perused the material record.

3. The main grievance of the writ petitioners in this writ petition is that the impugned proceedings are in gross violation of Section 3C(2) of the National Highways Act, 1956 (for short, “the Act”).

4. Learned senior counsel points out that on publication of notification under sub-section (1) of Section 3A of the Act, the petitioners are entitled to raise objections; that as per Section 3C(2) of the Act, such objections under sub-section (1) of Section 3C of the Act shall be submitted to the competent authority; that the competent authority shall give the objector an opportunity of being heard either in person or through a legal practitioner; that only after an opportunity of hearing on all such objections and after making further enquiry, if any, necessary orders must be passed assigning reasons answering the objections of the petitioners; that the said procedure is not followed; and, that the impugned order on the very face of it shows that neither an opportunity of hearing is afforded nor reasons are assigned in support of the findings in the order.

5. Learned Government Pleader, however, brings to the notice of this Court, the proceedings, dated 22.05.2018, of the GM (T) & Project Director, NHAI, PIU, Tirupati, addressed to the Joint Collector – II & CALA, Chittoor, Chittoor District i.e., the competent authority, wherein the reasons for non-consideration of the

objections of the petitioners are stated. However, it is only an internal correspondence and the contents therein are not the subject matter of the impugned order. Therefore, the said order remains an unreasoned order and is one passed without affording an opportunity of personal hearing, as contemplated under law. In that view of the matter, this Court is of the considered view that the impugned endorsement/proceeding is liable to be set aside.

6. Accordingly, the Writ Petition is disposed of setting aside the endorsement in Rc.NH71/3/2018, dated 28.05.2018, issued by the 3rd respondent/Joint Collector-II & CALA, Tirupati, Chittoor District, however, reserving liberty to the 3rd respondent to pass a fresh appropriate order in strict adherence to the provisions of Section 3C(2) of the Act. It is needless to state that till such exercise is completed, absolute *status quo* as regards the possession of the petitioners over the subject land shall be maintained. There shall be no order as to costs.

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

JUSTICE M.SEETHARAMA MURTI

Date: 22.06.2018
AMD

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