

THE HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No. 16144 of 2016

ORDER:

The prayer sought for in this writ petition is as under:

“.....to issue any writ, order or direction more in the nature of Writ of Mandamus declaring the action of respondents in trying to demolish the petitioner’s houses/buildings without issuing any notice or following the procedure contemplated under law and without issuing any Land Acquisition Proceedings is arbitrary, illegal and violative of Articles 14, 21 of the Constitution and also violation of principles of natural justice and consequently direct the respondents not to demolish the petitioners houses/buildings without following the due procedure contemplated under law and pass such other order or orders as the Hon’ble Court deems fit, just and necessary.”

Heard the learned counsel for the petitioners and the learned Standing Counsel appearing for the respondent No.3-Corporation.

The facts of the case are that the petitioners are in possession and enjoyment of the dwelling houses in bearing Door Nos.75-14-123, 75-14-104, 75-14-101/1A,

75-14-88/2, 75-14-96, Plot No.24, Door Nos.75-14-103/2, Plot No.9, Door No.75-14-101 respectively at Bhavanipuramu, Vijayawada, Krishna district. In the year 1995, the Government of Andhra Pradesh through the then Tahsildar issued house site pattas in favour of the predecessors of the petitioners and later, the petitioners have purchased the said properties from their vendors and since then, they have been residing in their respective properties. Since there were some rumors that their properties will be acquired for construction of parks, green fields, resorts to promote the tourism, some of the residents of the locality, had filed W.P.No.16070 of 2016 in this Court. This Court granted stay of demolition in the said matter. Apprehending the demolition, the petitioners herein filed present writ petition. On 10.5.2016, this Court granted interim direction to the respondent authorities not to dispossess the petitioners or in any way interfere with their possession over the subject properties except in accordance with the due procedure laid down by law. However, during the course of arguments, it is brought to the notice of this Court by the learned counsel for the petitioners that in spite of the orders of this Court dated

10.5.2016, structures were demolished culminating in filing of the contempt cases.

Per contra, the learned Standing Counsel for the respondent No.3-Corporation would submit that pursuant to the orders passed by this Court on 10.5.2016, the respondent No.3-Corporation negotiated with the petitioners herein and others for settlement for the purpose of giving Transferable Development Rights (TDRs) and structural compensation in compliance with G.O.Ms.No.168 MA&UD (M) Department, dated 7.4.2012 which was issued in the United State of Andhra Pradesh and G.O.Ms.No.119 MA&UD(M) Dept., dated 28.03.2017 holding force at present. The learned Standing Counsel would also submit that the said negotiations are still going on and in some cases, the house owners have already accepted the Transferable Development Rights (TDRs) and structural compensation. If the petitioners are not willing to accept the TDRs as well as structural compensation in compliance with the said G.O.Ms.No.119, dated 28.03.2017, the learned Standing Counsel would submit that the Corporation will go for acquisition of land by following the mandatory procedure as contemplated under the provisions of the Right to

Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Looking into the above said aspect and keeping in view the submissions made by the respective counsel, this Court is of the opinion that this writ petition can be disposed of with a direction to the respondent No.3-Corporation to pay compensation either complying with the terms and conditions of G.O.Ms.No.119 dated 28.03.2017 or in the alternative by following the procedure contemplated under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The said process shall be completed within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, the writ petition is disposed of.

Miscellaneous petitions, pending if any, shall stand closed. No order as to costs.

JUSTICE P. KESHA RAO

Date: 24.04.2018

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