

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.31694 OF 2018

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed requesting to issue a writ of *mandamus* declaring the action of the respondents in trying to take possession of the property to an extent of Ac.1.65 cents in Sy.No.225 of Koppole Village of Ongole Urban Mandal without resorting to acquisition as required under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act No.30 of 2013) as illegal and arbitrary, and to declare the action of the respondents in taking steps for taking possession of the said property pursuant to notification in Rc.No.III/139482/2018, dated 25.08.2018 and without resorting to acquisition as required under the said Act 30 of 2013, as illegal and arbitrary, and consequently, direct the respondents not to proceed with such actions or meddle with the said property.

2. I have heard the submissions of the learned counsel appearing for the petitioner, the learned Government Pleader for Land Acquisition (A.P.), appearing for 1st respondent, the learned Government Pleader for Revenue (A.P.), appearing for respondents 2 to 5, and of the learned Standing Counsel for Ongole Municipal Corporation, appearing for the 6th respondent.

3. I have perused the material record.

4. The grievance of the writ petitioner is this:

She filed a suit for partition in O.S.No.119 of 2010 on the file of the II Additional District Court, Ongole. The same was preliminarily decreed. As per the terms of the said decree, the petitioner is entitled to Ac.0.41 $\frac{1}{4}$

cents out of a total extent of Ac.1.65 cents in Sy.No.225 of Koppole Village, which is part of Ac.3.24³/₄ cents, which is subject matter of the notification in Rc.No.III/139482/2018, dated 25.08.2018. An appeal against the decree in the said partition suit is pending before this Court. The petitions, dated 04.08.2018 and 06.08.2018, filed by the petitioner even before the notification were not considered. The respondents are trying to dispossess the petitioner from the land, which is in joint possession. Further, in view of the pendency of the appeal, the respondents are not entitled to resort to such acts of dispossession much less without considering the objections of the petitioner.

5. Learned counsel for the petitioner brought to the notice of the Court the letter, dated 10.08.2018, of the District Collector, Prakasam District, Ongole, addressed to the Revenue Divisional Officer, Ongole, i.e., the 4th respondent herein, directing to enquire into the matter and to report to the Collector for necessary action. He further submitted that the petitioner is entitled to continue in possession of the subject property and that the respondents are not entitled to dispossess her from the subject property, in the facts and circumstances of the case.

6. Learned Standing Counsel appearing for the Municipal Corporation/the 6th respondent would submit that in the notification, a time of seven days from 03.09.2018 was given for submission of objections and that the petitioner may, if she so desires, submit her objections and that her objections, if any submitted, will be considered and disposed of by the competent authority in accordance with the procedure established by law.

7. Learned counsel for the petitioner, in reply, would submit that the objections submitted several times since May, 2018, were not considered

and that, therefore, the respondents may be directed to consider the objections already submitted and that in the meanwhile her possession over the subject land may be protected in the interests of justice. Learned counsel also placed on record the copy of the objections, dated 30.08.2018, said to have been submitted to the Collector as well as the Joint Collector and other revenue officials.

8. Having regard to the submissions, the Writ Petition is disposed of directing the respondent No.2 – The District Collector, Prakasam District, Ongole, to consider the objections of the petitioner including the objections, dated 30.08.2018, in strict accordance with the procedure established by law and pass orders within four (4) weeks from the date of receipt of a copy of this order and communicate the decision taken thereon to the petitioner within a week thereafter. It is made clear that till the said exercise is completed as directed supra, the respondents shall not interfere with the possession of the petitioner over the subject land.

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: 05.09.2018
AMD

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