

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition no.41986 of 2018

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking a writ of Mandamus or any other appropriate writ or order declaring the action of the respondents in demolishing the tin sheds erected in the property of the petitioner bearing Municipal No.2-46/1/B/32/A forming part of Plot No.32/A in Sy.No.60 situated at Guttala Begumpet Village, Serilingampalli Mandal, Ranga Reddy District and in seeking to acquire the said property without following due process of law, as illegal, arbitrary and without jurisdiction. A consequential direction to the respondents to forthwith re-erect the tin sheds in the property of the petitioner and not to interfere with the lawful possession and enjoyment of the petitioner over the above property, without following due process of law, is also sought, besides costs.

I have heard the submissions of the learned counsel for the petitioner and of the learned standing counsel appearing for the respondents 2 & 3. I have perused the material record.

The case of the petitioner is that it is the owner of the subject property and that for the purpose of road widening the respondents are attempting to demolish a part of the property without following the procedure established by law and without acquiring the portion of the

property, which is required for road widening, and paying the compensation.

Learned counsel for the petitioner submits that under similar circumstances, when neighbours, whose property was also sought to be interfered with for the same reason, filed a writ petition in WP.No.37345 of 2018, this Court granted an interim order in IA.No.1 of 2018 stating that the respondents therein shall not interfere with the possession and enjoyment of the said petitioners over their said property, without acquiring the same under Act 30 of 2013 and paying compensation and extending all other benefits under the said Act to the said petitioners. A copy of the said order is placed on record. A similar order is invited in this writ petition by the learned counsel for the petitioner.

Learned standing counsel would submit that at present the municipal corporation is not undertaking any road widening activity at the subject area and that in the event of any such requirement, the respondents 2 & 3 would follow the procedure established by law. She would further submit that the petitioner constructed a shed unauthorisedly and is running a bar and restaurant in the said shed and that the debris is being deposited or dumped on the road and that in view of the said illegal acts, the Corporation is also proposing to take appropriate action.

In reply, learned counsel for the petitioner submitted that the lessee of the petitioner is running a wine shop.

Having regard to the submissions, the Writ Petition is disposed of directing that the respondents not to interfere with the possession and enjoyment of the petitioner over the subject property without acquiring the property of the petitioner by following the procedure under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [Act 30 of 2013] and paying market value as compensation and extending all other benefits thereunder to the petitioner, in the event the subject property or any portion thereof is required for the road widening. However, this order shall not preclude the respondents 2 & 3, if they so desire, from taking necessary action against the violations complained of and which are stated to have been committed by the petitioner, however, by following the procedure established by law.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

20.11.2018
Vjl