

HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.12455 OF 2021

ORDER:

The petitioners approached the Court seeking the relief as follows:

“To issue a Writ, Order or Direction more particularly one in the nature of **WRIT OF MANDAMUS** declaring the action of the Respondent authorities in digging the lands of the Petitioners in Sy.No:130/AA2 of extent of Ac.0-19 guntas, Sy.No: 130/A1 to the extent of Ac.0-14 gts and in Sy. No. 130/A2 extent of Ac.0-14gts, situated at Itikyala Village, hamlet of Settipalem Grampanchayat, Vemulapally Mandal, Nalgonda District for the purpose of constructing a sewage Canal without following the procedure contemplated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013 as illegal, arbitrary and consequently direct the Respondent authorities to follow the procedure contemplated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013 before carrying out digging activities of the lands of the Petitioners for the purpose of constructing a Sewage Canal from our lands and to pass such order or orders as this Hon'ble Court deem fit as the proper in circumstances of the case.”

2. This Court vide its interim order dated 27.05.2021 was pleased to pass orders observing as follows:

“Notice Before Admission.

Learned Government Pleader appearing for the 4th respondent had informed the Court that the 4th respondent is not touching the property of the petitioner and the 4th respondent is laying the road within the road limits only and he seeks time to file counter.

Post after two weeks.”

3. The counter affidavit filed by respondent No.4 in particular Paras 7, 8 and 9 of the counter affidavit read as under:

“7. In Reply to Para 5, It is submitted that the allegation made by the petitioner is false and baseless. As such due to Widening and Strengthening of Suryapeta-Bheemaram-Shettipalem road Suryapet to Bheemaram Km 0/0 to 6/0 & Tekumatla Bridge to Shettipalem road from Km 11/0 to 34/0) in Nalgonda District (Working reach from Km 0/0 to 5/250 & 11/0 to 30/0) is carried out by the successful bidder and on the day 12th may 2021 departmental inspection has been conducted along with the agency in the above said site, Hon'ble Surpunch of that Shettipalem village is also accompanied. Meanwhile, the sewage drainage work was going on and the Surpunch has informed that the drain work is adjacent to the road boundary, and the R&B road widening work is in progress with in the ROW.

8. In Reply to Para 6, It is submitted that, this department not at all related or involved or intervened into the sewage drain work of gram panchayath. The above R&B road work is not at all disturbing the petitioners land. However, false allegation by the petitioner leads, receipt of summon from the High Court of Telangana, Special Organization Jurisdiction on 25.05.2021. Hence, submitting the replies.

9. In Reply to Para 7, It is submitted that the Allegation of the petitioners is false as already stated in reply to Para 6, this department has no more consultation with the work of "digging activities for laying sewage canal" and the work was taken up by the Grampanchayat. The widening and strengthening work was taken up by Roads and Buildings department with in ROW and the work is in progress, no land acquisition for road widening portion is required/arise as the work is going on within the road limits and the work is in progress with in ROW."

4. The counter affidavit filed by respondent No.5, in particular Paras 8 and 9 of the counter affidavit reads as under:

"8. It is submitted that absolutely there is no encroachment into the petitioners alleged land but the said drainage is being constructed in the road margin of R & B road and absolutely it does not deprive anybody's legal rights but solve the existing stagnation of water

problem. It is relevant to mention here that this drain may flow only in the rainy season because of heavy rain water also includes in it.

9.It is submitted that the sons of the petitioners and their sons high-handedly obstructed the drainage works and abused this answering respondent and Panchayat Secretary for which a complaint was given to the SHO, PS, Vemulapally and who in turn registered a Case vide FIR No.86/2021 dated 18/05/2021.”

5. In view of the specific averments made in Paras 8 and 9 of the counter affidavit filed by respondent No.5 and Paras 7, 8 and 9 of the counter affidavit filed by respondent No.4 referred to and extracted above and the fact as borne on record that there is no encroachment into the petitioners subject land and the drainage has been constructed in the road margin of R & B road, this Court opines that no further orders are necessary.

6. Accordingly, the writ petition is closed. However, there shall be no order as to costs.

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

MRS JUSTICE SUREPALLI NANDA

Date:23.02.2023

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