

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

WRIT PETITION No.1184 OF 2023

JUDGMENT:-

Notice has been accepted by the learned Government Pleader for Municipal Administration and Urban Development Authority for the respondents 1 and 3, the learned Government Pleader for Revenue for the respondent No.2 and Sri Muni Reddy, learned standing counsel has accepted the notice for the 4th respondent.

2. Heard Sri O. Uday Kumar, learned counsel for the petitioner and the Sri P. Anand Surya, learned counsel representing Sri Suresh Kumar Reddy Kalava, for the 5th respondent.

3. The petitioner has filed this writ petition under Article 226 of the Constitution of India for the following reliefs:-

“This Hon’ble Court may be pleased to issue a writ or order or orders or direction more particularly one in the nature of Writ of Mandamus to declare the action of the 5th Respondent laying 80 feet master plan road without following due process of law in the petitioner property situated in Sy.No 47 to an extent of Ac. 1.03 cents i.e 4986 sq yards presently assigned with D.No.22-11-48/A bounded East: Land of Puligoru Ramakrishna Reddy West: Land Sold by Ramakrishna Reddy to N.Venkata Reddy and S.Venkatareddy North: Tirupati Renigunta Road Akkarampalli Village Accounts Chandragiri Taluk Tirupati Sub District, Tirupati District is illegal arbitrary unjust irrational and violation of Articles 14, 19 and 21 and 300A of Constitution of India violation of The Right to Fair Compensation and Transparency in Land Acquisition

Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) violation of principles of Natural Justice and violation of Apex Court as well as this Honble Court orders and consequently direct the 5th Respondent and its authorities to pay the compensation for petitioners subject property as per The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 (Act 30 of 2013) and to pass appropriate orders.”

4. The grievance raised is that the 5th respondent is laying 80 feet Master Plan Road affecting the petitioner’s property but without following due process of law and without making payment of compensation to the petitioner. He submits that pursuant to the press release vide Roc.No.2411(7)/2022/G1 dated 30.12.2022 (wrongly mentioned as 30.12.2023), the Municipal Corporation invited suggestions and objections in the Draft Road Development Plan from the concerned land owners within a specified time along with ownership documents, pursuant to which the petitioner submitted the objections dated 03.01.2023 inter alia requesting to reduce the 80 feet road to 60 feet road as also to make payment of monetary compensation instead of issuing Transferrable Development Rights T.D.R bonds, as per the provisions The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (for short, the Act, 2013). He submits that the objection has not yet

been considered but the respondent-Corporation has started the road development work.

5. Sri P. Anand Surya, learned counsel submits that he has received the written instructions from the Additional Commissioner of the Municipal Corporation, Tirupati. Based on such written instructions, he submits that the petitioner has filed objections on 03.01.2023 pursuant to the press release dated 30.12.2022 for the proposed Master Plan which are under consideration. He further submits that if there is need to acquire the subject land of the petitioner, due procedure as laid down under the Andhra Pradesh Municipal Corporation Act, 1955 (for short, the Act, 1955) will be followed and at present the Corporation has only conducted the preliminary survey for the 80 feet Mater Plan road and has made demarcation.

6. Considering the aforesaid submissions, this court is of the view that the respondent No.5 having issued the press release and invited objections against the Draft Road Development Plan and pursuant thereto the petitioner having submitted his objections dated 03.01.2023, the same should be considered and decided first by the 5th respondent and thereafter consequent upon the decision taken if the property of the petitioner or any part thereof is still affected by such road development, by following the relevant provisions of the Act,

1955, further action ought to be taken. Admittedly, the petitioner's objection is pending before the 5th respondent and as submitted by Sri P. Anand Surya is under consideration of the 5th respondent.

7. In the result, this writ petition is being disposed of finally at this stage with the consent of all the learned counsels for the parties present, with the following directions:

- i) The petitioner's objection dated 03.01.2023 shall be considered by the 5th respondent, in accordance with law, within a period of three weeks from the date of receipt of copy of this order by the 5th respondent.
- ii) The petitioner shall serve copy of this order to the 5th respondent within a period of one week from its receipt.
- iii) Till the decision is taken on the petitioner's objections, no action would be taken with respect to the subject property of the petitioner for road development.
- iv) If after the decision still, the petitioner's property is being affected by such road development plan, the same shall be taken by following the due process of law as regards taking such property and payment of compensation subject to his entitlement.

8. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI,J

Date:19.01.2023.

Note:

Issue CC by tomorrow:

B/o

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Date:19.01.2023

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