

IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI

THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION No.20723 OF 2023

Between:

Venigandla Subbarao, S/o Bala Kotaiah,
R/o H.No.24-1-57, G.B.C.Road, Ponnur,
Municipality Tax Assessment
No.1025002857 and 10 others.

... Petitioners

And

The State of Andhra Pradesh, rep by its
Principal Secretary, Municipal
Administration & Urban Development,
Secretariat, Velagapudi, Amaravati and
three others.

... Respondents

Counsel for the petitioners	: Sri Varun Byreddy
Counsel for respondents	: GP for Municipal Administration and Sri M.Manohar Reddy Standing Counsel.

ORDER

The above writ petition is filed to declare the action of respondent No.2 in trying to demolish the properties of petitioners situated at GBC road i.e. from Rural Police Station to Sri Koppaka Venkaiah Vegetable Market, Ponnur, without paying due compensation in terms of Right to Fair

Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013, as illegal and arbitrary and in violation of Principles of Natural Justice.

2. Heard Sri Varun Byreddy, learned counsel for the petitioners and Sri G.Naresh Kumar, learned counsel representing Sri M.Manohar Reddy, learned Standing Counsel appearing for respondent No.2.

3. Notices under Section 172 & 174 of Andhra Pradesh Municipalities Act, 1965 (herein after referred to as 'the Act'), dated 14.07.2023 & 05.08.2023 respectively, were issued to the petitioner Nos.1 to 11. A perusal of notices would indicate that residential houses of petitioners are being affected for the purpose of widening of road i.e. from Rural Police Station to Sri Koppaka Venkaiah Vegetable Market, Ponnur. The petitioners were requested to co-operate with the Municipality to give consent and to accept TDR bonds as per G.O.Ms.No.223, dated 09.07.2018. Out of 11 petitioners, except petitioner No.6, other petitioners consented for the proposal made by respondent No.2.

4. In the counter affidavit filed on behalf of respondent No.2, it was averred that 157 structures were identified for road

widening. Out of 157 structures, owners of 155 structures provided affidavits consenting for demolition. In the additional counter affidavit filed on behalf of respondent No.1, it was averred that in the list submitted by Roads & Buildings Department, the name of petitioner No.6 was not mentioned.

5. As seen from the one of the notices filed along with writ petition *vide* Roc.No.1755/2015/G1, dated 05.08.2023 the land belonged to petitioner No.6 *vide* D.No.2-1-11 admeasuring 25.50 square yards is being affected in the proposed road widening. In fact, petitioner No.6 along with other petitioners was offered TDR @ 400% as per G.O.Ms.No.223 dated 09.07.2018.

6. Thus in view of notice issued by the Commissioner of respondent No.2, the averment in the additional counter that the name of petitioner No.6 was not found in the list submitted by the Roads & Buildings Department, falls to ground. If petitioner No.6 is not interested to accept TDR bond, the Commissioner of respondent No.2 has to necessarily follow the procedure contemplated under Section 174 of the Act. Without acquiring the land under Section 174 of the Act, the authority cannot dispossess the petitioner No.6.

7. In view of facts and circumstances of the case, the Writ Petition is disposed of giving liberty to the petitioner No.6 to submit explanation to the notice *vide* Roc.No.1755/2015/G1, dated 05.08.2023, within a period of (02) weeks from today. On such submission, the Commissioner of respondent No.2 shall conduct enquiry and pass appropriate orders, strictly in accordance with law. Till such time, the Commissioner of respondent No.2 shall not interfere with the petitioner No.6 possession of the property bearing D.No.2-1-11, GBC Road, Ponnur Municipality.

In view of submission made by the learned counsel for the petitioners, the Writ Petition in respect of other petitioners i.e. petitioner Nos.1 to 5 & 7 to 11, is closed. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand dismissed.

JUSTICE SUBBA REDDY SATTI

Date : 18.03.2024
TVN

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