

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION No.11686 OF 2023

ORDER:-

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:

“... to issue an appropriate Writ Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in trying to take possession of Graveyard and proceeding for issuance of Gazette under the Section 3D of the National Highways Act 1956 in pursuance of the Notification dated 14.03.2023 issued under Sub Section 3 of Section 3A of National Highways Act 1956 for acquisition of the land in Ac.0. 81cents in Sy.No.304 of BaireddyPalli Village and Mandal Chittoor District for the purpose of construction of 4 lane Bypass road on NH42 without considering the objections dated 03.04.2023 submitted by petitioners and providing an opportunity of personal hearing and also without communicating any decision as is required under section 3C of National Highways Act 1956 as arbitrary illegal abdication of the statutory duty caste on them contrary to the mandatory the provisions of National Highways Act 1956 apart from being violative of fundamental and constitutional rights guaranteed to the temple

under articles 14, 19, 21 and 300-A of constitution of India and consequently direct the respondents to consider the objections dated 03.04.2023 submitted by petitioners by dropping the acquisition of the land in an extant of Ac.0.81cents in Sy.No.304 of Baireddypalli Village and Mandal Chittoor District for the purpose of construction of 4 lane Bypass road on NH42....”

2. Heard Smt.S.Parineeta, learned counsel for the petitioner and learned Government Pleader for Land Acquisition appearing for the respondents.

3. The case of the petitioner in brief is that, the land in an extent of 3277.73 Sq.Mts/Ac.0.81 Cents in Sy.No.304/2 of Baireddypalli Village and Mandal, Chittoor District herein after referred to as the subject land is being used as Burial ground/cemetery by the Hindu community of the Village since time immemorial. Moreover, the subject land is only the Burial Graveyard/Cemetery for the whole village and over 95% of town population bring their lost family members to the same place to perform their last rituals. While so, the 2nd respondent proposed four lane By-pass Road i.e., NH-42 which was sanctioned by 1st respondent and pursuant to the said sanction, 2nd respondent is taking steps for laying road which is passing through the

subject land for which the petitioner submitted his objections dated 03.04.2023.

4. Learned counsel for the petitioner submits that without considering the petitioner's objections dated 03.04.2023, respondents are trying to dispossess/alter the nature of subject land.

5. On the other hand, it is brought to the notice of this Court by the learned Government Pleader for Land Acquisition that, the authorities have rejected the petitioner's representation on 27.04.2023. However, learned counsel for the petitioner submitted that, no such rejection order is communicated nor brought to the notice of the petitioner and any such rejection order is behind the back of the petitioner.

7. To the said submission, learned Government Pleader for Land Acquisition submitted that the authorities would reconsider the petitioner's representation and till such exercise they would not take any coercive steps.

8. Taking the submissions into consideration, as there is no material placed on record evidencing the disposal of the petitioner's representation, this Court is inclined to dispose of the Writ Petition with the following direction:

The respondent authorities are directed to re-consider the petitioner's representation and pass a reasoned order after giving an opportunity of being heard to the petitioner and communicate the same to the petitioner. Till reconsideration of the petitioner's representation afresh, the respondent-authorities are directed not to take any coercive steps. There shall be no order as to costs.

5. As a sequel thereto, interlocutory applications pending, if any in the writ petition, shall also stand closed.

JUSTICE RAVI CHEEMALAPATI

04th May, 2023

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THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION.No.10363 of 2023

Dated: 04-05-2023

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