

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF MAY
TWO THOUSAND AND TWENTY THREE



PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 11686 OF 2023

Between:

1. S Muralidhar, S/o. Sreenivas Acharya Aged about 56 years, R/o. D.No.6-188-a, Baireddypalli Village and Mandal, Chittoor District.
2. P.C.Vijay Kumar, S/o. P.Chenngalayappa Aged about 48 years, R/o. D.No.4-47, Baireddypalli Village and Mandal, Chittoor District.
3. A.Murali, S/o. A.Chenngalayappa Aged about 48 years, R/o. D.No.7-9, Nehru Nagar, Baireddypalli Village and Mandal, Chittoor District.
4. K.Shankara, S/o. K.Venkataramappa Aged about 41 years, R/o. D.No.7-27, Joupupalem Village, Baireddypalli Mandal, Chittoor District.
5. K.Mogilappa, S/o. Late Kuppa Swamy Aged about 42 years, R/o. D.No.4-293/1, B.C.Colony, Baireddypalli Village and Mandal, Chittoor District.

...PETITIONERS

AND

1. Union Of India, rep. by its Secretary, Ministry of Road Transport AND Highways (MORTH) Transport Bhavan, 1, Parliament Street, New Delhi-110001.
2. National Highways Authority of India, Rep. by its Chairman G-5 AND 6, Sector -10, Dwaraka, New Delhi - 110075.
3. The Regional Officer, Ministry of Road Transport AND Highways (MORTH) Regional Office, Door No. 41-29-45A, Rajmarg Bhavan, Kanakadurga Varadhi, Rani Gari Thota, Krishnalanka, Vijayawada, Andhra Pradesh - 520013.
4. The Regional Officer, The National Highways Authority of India, Plot No.21, Teachers' Colony, Gurunanak Nagar Road, Vijayawada - 520 008, Andhra Pradesh.
5. The Engineer In Chief, (R & B) National Highways AND CRF, Room No. 412, 4th Floor, State New HODs Building, M.G.Road, Vijayawada - 520010.
6. The Superintending Engineer, (R & B), National Highways Circle, Ananthapuramu, Andhra Pradesh.
7. The District Collector, Chittoor District, Chittoor.

8. The Revenue Divisional Officer-cum Competent Authority for Land Acquisition, (CALA), Palamaneru Revenue Division, Palamaneru, Chittoor District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased 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 By-pass road on NH-42 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 3(C) 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 Indiaand 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 By-pass road on NH-42.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay all further proceedings in pursuance of the Notification dated 14-03-2023, issued under Sub Section (3) 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.

Counsel for the Petitioner :SRI. S PARINEETA

Counsel for the Respondent No.1:SC FOR N.HARINATH

Counsel for the Respondent NOS.2 to 6: SC FOR S.S.VARMA

Counsel for the Respondent NOS.7&8: GP FOR LAND ACQUISITION

The Court made the following: ORDER

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 extent 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 re-consider 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.

SD/- G. HELA NAIDU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. Secretary, Union Of India, Ministry of Road Transport AND Highways (MORTH) Transport Bhavan, 1, Parliament Street, New Delhi-110001.
2. Chairman, National Highways Authority of India, G-5 AND 6, Sector -10, Dwaraka, New Delhi - 110075.
3. The Regional Officer, Ministry of Road Transport AND Highways (MORTH) Regional Office, Door No. 41-29-45A, Rajmarg Bhavan, Kanakadurga Varadhi, Rani Gari Thota, Krishnalanka, Vijayawada, Andhra Pradesh - 520013.
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7. The District Collector, Chittoor District, Chittoor.
8. The Revenue Divisional Officer-cum Competent Authority for Land Acquisition, (CALA), Palamaneru Revenue Division, Palamaneru, Chittoor District.
9. One CC to Sri. S Parineeta Advocate [OPUC]
10. One CC to Sri.N.Harinath Advocate [OPUC]
11. One CC to Sri.S.S.Varma Advocate [OPUC]
12. Two CCs to GP For Land Acquisition, High Court of Andhra Pradesh [OUT]
13. Two CD Copies

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SK-Aslam

HIGH COURT

DATED:04/05/2023

ORDER

WP.No.11686 of 2023



15 copies
S.M.A
16/08/23

DISPOSING OF WP WITHOUT COSTS