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

FRIDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

I.A. No.1 of 2021 and I.A. No.1 of 2022
In
WRIT PETITION NO: 19960 OF 2020

I.A. No.1 of 2021

Between:

The Superintendent of Customs and GST, Site in – Charge, National Academy of Customs and Indirect Taxes (NACIN), Palasamudram Village, Gorantla Mandal, Ananthapuram District.

...PETITIONER/RESPONDENT No.3

AND

1. V. Ramaiah, S/o. Late V. Rangappa, Age 45 years, R/o. Mitta Meedapalli, Hindupuram, Karikera, Ananthapur District.
2. The Southern Power Distribution Company Limited, Rep. by its Chairman, Tirupathi, Chittoor District.
3. The Assistant Executive Engineer, APSPDCL, Somandepalli Section, Somandapalli, Ananthapuram District.

...RESPONDENTS/RESPONDENTS

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 vacate the interim order passed in I.A. No. 01/2020 in W.P No. 19960/2020 dated 22nd October.

Counsel for the Petitioner : SRI P. V. RAGHU RAM
Counsel for the Respondent Nos.1 & 2 : SRI K.S. GOPALA KRISHNAN, SENIOR COUNSEL, ASSISTED BY SRI P.V. RAGHURAM
SRI V. R. REDDY KOVVURI, SC FOR APSPDCL
Counsel for the Respondent No.3 : SRI N. HARINATH, DEPUTY SOLICITOR GENERAL OF INDIA
SRI M.V.J.K. KUMAR, SC FOR CENTRAL EXCISE CUSTOMS AND SERVICE TAX

IA NO: 1 OF 2022

Between:

1. The Southern Power Distribution Company Limited, Rep. by its Chairman, Tirupathi, Chittoor District.
2. The Assistant Executive Engineer, APSPDCL, Somandepalli Section, Somandapalli, Ananthapuram District.

...VACATE PETITIONERS/RESPONDENTS

AND

1. V Ramaiah, S/o. Late V. Rangappa, Age 45 years R/o. Mitta Meedapalli, Hindupuram, Karikera, Ananthapur District.

...RESPONDENT/PETITIONER

2. Office of the NACIN SITE, Rep. by its Superintendent, Palasamudram Village, Gorantla Mandal, Ananthapuram District.

...RESPONDENT

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim order dated 22-10-2020 in I.A.No.1 of 2020 in Writ Petition No. 19960 of 2020.

Counsel for the Vacate stay Petitioner/Respondents : SRI V.R. REDDY KOVVURI, SC FOR APSPDCL

Counsel for the Respondent Nos.1 & 2 : SRI K.S. GOPALA KRISHNAN, SENIOR COUNSEL, ASSISTED BY SRI P.V. RAGHURAM

Counsel for the Respondent No.3 : SRI N. HARINATH, DEPUTY SOLICITOR GENERAL OF INDIA
SRI M.V.J.K. KUMAR, SC FOR CENTRAL EXCISE CUSTOMS AND SERVICE TAX

WRIT PETITION NO: 19960 OF 2020

Between:

V Ramaiah, S/o. Late V. Rangappa, Age 45 years R/o. Mitta Meedapalli, Hindupuram, Karikera, Ananthapur District.

...PETITIONER

AND

1. The Southern Power Distribution Company Limited, Rep. by its Chairman, Tirupathi, Chittoor District.
2. The Assistant Executive Engineer, APSPDCL, Somandepalli Section, Somandapalli, Ananthapuram District.
3. Office of the NACIN SITE, Rep. by its Superintendent, Palasamudram Village, Gorantla Mandal, Ananthapuram 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 a writ order, or direction more particularly one in the nature of Writ of Mandamus to declaring the action of 3rd respondent having aware that the petitioners family has not given consent for acquisition and not received compensation even though issued impugned letter Vide No. OC.No. 6/2020 Dated 22nd September 2020 directing the 3rd respondent to disconnect the electrical service connections Vide No. 7334315000204 in respect of S.No.235/2 an extent of 0.99 cents and S.No. 244/2 an extent of 2.43 cents is as illegal improper and arbitrary and consequently to declare the letter as Vide No. OC.No. 6/20 Dated 22nd September 2020 as void.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to directing 3rd respondent not to disconnect the power connection in respect of service connections Vide No. 7334315000204 in respect of S.No.235/2 an extent of 0.99 cents and S.No. 244/2 an extent of 2.43 cents, pending disposal of the above Writ Petition.

Counsel for the Petitioner : SRI P. V. RAGHU RAM
Counsel for the Respondent Nos.1 & 2 : SRI K.S. GOPALA KRISHNAN, SENIOR COUNSEL, ASSISTED BY SRI P.V. RAGHURAM
SRI V. R. REDDY KOVVURI, SC FOR APSPDCL
Counsel for the Respondent No.3 : SRI N. HARINATH, DEPUTY SOLICITOR GENERAL OF INDIA
SRI M.V.J.K. KUMAR, SC FOR CENTRAL EXCISE CUSTOMS AND SERVICE TAX

The Court made the following: ORDER

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

I.A.No.1 of 2021 & I.A.No.1 of 2022 in

WRIT PETITION No.19960 of 2020

I.A.No.1 of 2021

Between:-

The Superintendent of Customs & GST, Site In-charge, National Academy of Customs & Indirect Taxes (NACIN) .... Vacate Stay Petitioner/ Respondent No.3

And

1) V.Ramaiah .... Writ Petitioner/Respondent No.1

2) The Southern Power Distribution Company Limited, represented by its Chairman, Tirupati

3) The Assistant Executive Engineer, APSPDCL, Somandepallii Section .... Respondents

Counsel for the Vacate Stay Petitioner/Respondent No.3 : Mr.N.Harinath, Learned Assistant Solicitor General of India

Mr.M.V.J.K. Kumar, Learned Standing Counsel for Central Excise, Customs & Services Tax

Counsel for the Respondents : Mr.K.S.Gopala Krishnan, Learned Senior Counsel, assisted by Mr.P.V.Raghuram

Mr.V.R. Reddy Kovuri, Learned Standing Counsel for APSPDCL.,

I.A.No.1 of 2022

Between:-

1) The Southern Power Distribution Company Ltd., represented by its Chairman, Tirupati
2) The Assistant Executive Engineer, APSPDCL, Somandepalli Section .... Vacate Stay Petitioners/ Respondents

And

1) V.Ramaiah .... Writ Petitioner/Respondent No.1

2) Office of the NACIN SITE, represented by its Superintendent .... Respondents

Counsel for the Vacate Stay Petitioners/Respondents : Mr.V.R.Reddy Kovvuri, Learned Standing Counsel for APSPDCL.,

Counsel for the Respondents : Mr.K.S.Gopala Krishnan, Learned Senior Counsel, assisted by Mr.P.V.Raghuram

Mr.N.Harinath, Learned Assistant Solicitor General of India

Mr.M.V.J.K.Kumar, Learned Standing Counsel for Central Excise, Customs & Services Tax

COMMON ORDER:

Heard Mr.K.S.Gopala Krishna, learned senior counsel appearing for the Writ Petitioner. Also heard Mr.N.Harinath, learned Assistant Solicitor General of India and Mr.V.R.Reddy Kovvuri, Learned Standing Counsel appearing for the respective respondents/vacate stay petitioners.

2. The above Interlocutory applications are filed by the 3rd respondent and respondent Nos.1 & 2 in the Writ Petition respectively, to vacate the interim order dated 22.10.2020 passed in I.A.No.1 of 2020.

3. The prayer in the Writ Petition, verbatim reads as follows:-

> "Hence, it is therefore prayed that this Hon'ble Court may be pleased to issue a writ order, or direction more particularly one in the nature of Writ of Mandamus to declaring the action of 3rd respondent having aware that the petitioners family has not given consent for acquisition and not received compensation even though issued impugned letter Vide No.OC.No.6/2020 Dated : 22nd September 2020 directing the 3rd respondent to disconnect the electrical service connections Vide No.7334315000204 in respect of S.No.235/2 an extent of 0.99 cents and S.No.244/2 an extent of 2.43 cents is as illegal, improper and arbitrary and consequently to declare the letter as Vide No.OC.No.6/20 Dated 22nd September 2020 as void and to pass such other order or orders as this Hon'ble Court may deem fit and proper under the circumstances of the case."

4. The Learned Senior Counsel submits that the writ petitioner is the absolute owner of the subject matter property, which is acquired by succession from his father by name one Mr.V.Rangappa and after his death, the properties were mutated in the name of the writ petitioner. He submits that the petitioner has been cultivating and harvesting the land according to seasons and the writ petitioner's name is reflected in the Revenue Records. Stating that the lands in question were sought to

be acquired for some public purpose and referring to the Award dated 23.12.2015 he contends that though Award was passed, the actual possession of the property was not taken, except symbolic possession and the writ petitioner cannot be deprived of his property in violation of the rights guaranteed under Article 300-A of the Constitution of India. He submits that the writ petitioner and other legal heirs of late V.Rangappa filed objections for acquisition of the land and the same have not been resolved by the Land Acquisition Officer.

5. Be that as it may. He submits that the writ petitioner is continuing in possession of the subject matter land, availing electricity connection in respect of the same and paying current consumption charges without any default. He submits that when the writ petitioner is still in possession of the subject matter lands and the acquisition proceedings are not finalized, under the guise of the impugned proceedings, the electricity connection to the petitioner's property is sought to be disconnected and as it is illegal, the writ petitioner is constrained to approach this Court. He submits that the impugned action of the respondents is also violative of Principles of Natural Justice. The learned counsel while relying on the decisions of High Court of Calcutta in **Kartick Dutta vs. The West Bengal State Electricity Distribution Company Limited & Ors. [WPA No.2790**

of 2020 dated 29.01.2021] and **Sukla Kar vs. The Calcutta Electric Supply Corporation Ltd., & Ors [WPA No.10534 of 2020 dated 24.12.2020]** urges for making the interim order absolute.

6. On the contrary, Learned Assistant Solicitor General of India appearing on behalf of the 3rd respondent contends that the writ petitioner on the earlier occasion filed W.P.No.10037 of 2016, wherein he sought for either payment of higher compensation for the land acquired from him or to exempt the same from the land acquisition. He submits that initially an interim order was granted in the said Writ Petition and the same was subsequently vacated by an order dated 11.07.2016. He submits that the writ petitioner suppressed the said crucial aspect in the present Writ Petition, obtained the interim orders and therefore, the writ petitioner is not entitled for continuation of the interim order. He contends that the Writ Petition itself is liable to be dismissed as the petitioner is guilty of suppression of material facts.

7. The learned counsel while pointing out that the 3rd respondent has not been properly described by the writ petitioner further submits that the Government of India, in consultation with the Government of Andhra Pradesh decided to establish a State of Art Training Academy i.e., National Academy of Customs, Indirect Taxes & Narcotics (for

short 'NACIN') under the aegis of Central Board of Indirect Taxes & Customs and the administrative control of Ministry of Finance, Government of India. The Learned Assistant Solicitor General submits that keeping in view the laudable object, the Government of Andhra Pradesh allotted an extent of Ac.500.34 cents in Palasamudram Village by acquisition of the land, including subject matter property in the year 2015 and handed over the same to Andhra Pradesh Industrial Infrastructure Corporation (for short 'APIIC'). He submits that the APIIC in turn, handed over the said extent of land to NACIN authorities vide Possession Certificate dated 27.02.2016 and a Sale Deed was executed vide document No.4713/2016 dated 24.08.2016 by the APIIC in favour of the Hon'ble President of India. He submits that the Government of India is therefore, the owner of the entire extent of Ac.500.34 cents, including the land acquired from the petitioner and it is in the effective control of NACIN, an agency of Government of India. He submits that as it was noticed that the writ petitioner is still using the electricity connections in respect of the land in question for some agricultural operations, the officials of NACIN addressed a Letter dated 22.09.2020 to the officials of the Power Distribution Company to disconnect the power supply temporarily, to enable the officials of NACIN to take up construction work. The learned counsel vehemently

argues that the writ petitioner cannot carry on its activities in the land owned by the Government of India, that the NACIN authorities are bound to protect the assets of the Government of India and take all measures to safeguard the same and therefore the Communication dated 22.09.2020 cannot be termed as 'illegal' as sought to be contended.

8. The Learned Assistant Solicitor General also submits that mere entries in Revenue Records would not confer any title or rights over the property and after vacation of the order in W.P.No.10037 of 2016, which has become final, the writ petitioner cannot claim any interest over the subject matter property, much less, continuation of power supply. Placing reliance on the decisions of the High Court of Calcutta in **Anjali Metia & Ors. Vs. West Bengal State Electricity Board & Ors., [2006 SCC OnLine Cal 427 (D.B)]** and **Shyoraj Singh & Another vs. State of U.P & Others [2021 SCC OnLine ALL 873 (D.B)]**, the learned counsel submits that as the private interest is subservient to public interest, the balance of convenience for continuation of interim order is not in favour of the petitioner. The learned counsel also places reliance on the Judgment of the Hon'ble Supreme Court in **Dr.Abraham Patani of Mumbai & Anr. Vs. The State of Maharashtra & Ors., [Civil Appeal No.5929 of**

2022 dated 02.09.2022]. Contending that in view of the interim orders granted by this Court, the authorities are not in a position to proceed with construction works and irreparably prejudiced, he seeks for vacating the interim order.

9. The Learned Standing Counsel of A.P.S.P.D.C.L., referring to the averments made in the Counter Affidavit submits that the service connection bearing No.7334315000204 is provided for 'residential purpose' and not for 'agricultural operations'. He submits that the bills in question would indicate that the same are in respect of 'residential category' for service connection No.7334315000152. He also submits that as the Government of India is the lawful owner of the subject matter property, no fault can be found with the Communication addressed by the concerned authority and the writ petitioner without any right in the subject property is not justified in questioning the same. He submits that the Writ Petition itself is devoid of merits and the same is liable to be dismissed.

10. This Court has considered the submissions made, perused the material on record and decisions relied on by the respective counsel.

11. From the material on record, it can be culled out that the property in question i.e., an extent of Ac.0.99 cents in Sy.No.235/2 and an extent of Ac.2.37 cents (wrongly mentioned as Ac.2.43 cents in the prayer) in Sy.No.244/2 is the subject matter of land acquisition proceedings for allocation to NACIN. It is not in dispute that an Award dated 23.12.2015 was passed by the Land Acquisition Officer & Revenue Divisional Officer, Penugonda. From a reading of the said Award (Ex.P.3), it would appear that the writ petitioner requested for exemption of the said lands from acquisition or to pay higher compensation @ Rs.10,00,000/- per acre and the legal heirs of the original owner i.e., V.Rangappa filed objections stating that the shares between the family members are not settled.

12. Be that as it may. The following undisputed facts emerge from the rival contentions:

a) The writ petitioner herein on the earlier occasion filed W.P.No.10037 of 2016, seeking the relief which reads thus:

> ".....to issue a writ or order direction more particularly one in the nature of Writ of Mandamus under Art 226 of Constitution of India declaring the action of the respondents assured the petitioner to consider his objections and fixing the compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) per acre if not fixed the compensation as assurance given by the respondents the land will be exempted from the land acquisition without considering the objections by passing an award vide Rc.No.FTS G1/1378/2015 Dt.26.12.2015 by fixing a meager amount of Rs.5,00,000/- (Rupees five lakhs only) per acre, as illegal, improper, arbitrary and to pass such other orders."

b) He also sought the following interim relief *vide* W.P.M.P.No.12679 of 2016, which reads thus:

> "..... it is prayed that this Hon'ble Court may pleased to directing the respondents not to take possession of the petitioner's land situated at Revenue Divisiona Of Ananthapur, SRD of Penukonda, Anantapur, which is limits of revenue village of Thungodu, Somandepalli Mandal vide S.No.235-2 to an extent of Ac.0.99 cents and S.No.244-2 to an extent of Ac.2.37 cents and to pass such other order...."

c) On 04.04.2016, the following order was passed:-

> "Notice before admission.
>
> Learned G.P. for Land Acquisition takes notice for respondents.
>
> There shall be interim direction as prayed for, for a period of three months.
>
> Post on 04.06.2016."

d) Subsequently, the said order was vacated by an order dated 11.07.2016, the relevant portion of which reads as follows:-

> "Admittedly, as is evident from the averments made in the counter affidavit filed in support of the vacate stay petition, the petitioner has not participated in the award enquiry. Without doing so, he sought for enhancement of compensation at Rs.10,00,000/- per acre by way of filing objections. In any case, in a proceeding under Article 226 of the Constitution, the petitioner cannot seek for enhancement of compensation, but redress his grievance in appropriate forum. Even otherwise, the petitioner has not challenged the award passed in respect of the lands in question in the writ petition. In the circumstances, no useful purpose will be served in continuing the interim order granted by this Court on 8-7-2016 and the same is hereby vacated. WVMP is allowed and the WPMP is dismissed."

e) No appeal is preferred against the said order dated 11.07.2016 and the same has attained finality.

13. However, it is curious to note that though the writ petitioner in the writ affidavit mentioned about filing of the above said Writ Petition and pendency of the same, the material fact with regard to the above said order dated 11.07.2016 which has a crucial bearing, appears to have been consciously omitted for the best reasons known to him. As rightly contended by the learned Assistant Solicitor General of India and in the considered opinion of this Court, it amounts to suppression of material fact and the interim orders are liable to be vacated on that sole ground. It may not be out of place to mention here that to the averments made in the Counter Affidavits filed on behalf of the respondents/vacate stay petitioners, no reply affidavit is filed and the same are therefore, have remained un-rebutted.

14. The Learned Senior Counsel had referred to some decisions in support of the petitioner's case referred to supra, but they are of persuasive value only.

15. In the present case, as mentioned earlier, the interim order granted in W.P.No.10037 of 2016 is vacated by an order dated 11.07.2016 as a consequence of which, there is no impediment to the NACIN to take possession of the property and any resistance by the writ petitioner by whatever means cannot be countenanced as admittedly, no appeal was preferred against the said order and thus it

had attained finality. Despite the above position and suppressing the crucial facts the present writ petition is filed. This conduct of petitioner in suppressing the material fact is not only reprehensible, but also disentitles him from continuation of the interim order.

16. The other contentions raised by the Learned Senior Counsel with reference to the land acquisition proceedings etc., deserves no appreciation at this stage. Suffice to state that as is evident from the material on record, the writ petitioner has not agreed for the compensation in terms of the Award and proposals were submitted under Sections 64 & 77(2) of the Land Acquisition Act, 2013. Thus, the interest of the writ petitioner is well protected.

17. In **Dr.Abraham Patani of Mumbai**, the Hon'ble Supreme Court had extensively dealt with the aspect of public interest vis a vis private interest by referring to the earlier legal precedents and emphasized that *'the rights of the individual must only be watered down when the necessary circumstances demanding such a drastic measure exist.'*

18. In the light of the conclusions arrived at with reference to the conduct of the writ petitioner as also decision of the Hon'ble Supreme Court, this Court is of the considered opinion that continuation of the

interim orders dated 22.10.2020 is not warranted. Balance of convenience is not in favour of the writ petitioner, either. Therefore, the same is vacated.

19. In the result, I.A.No.1 of 2021 & I.A.No.1 of 2022 are allowed and I.A.No.1 of 2020 stands dismissed. There shall be no order as to costs.

SD/- SHAIK MOHD. RAFI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman, Southern Power Distribution Company Limited, Tirupathi, Chittoor District.
2. The Assistant Executive Engineer, APSPDCL, Somandepalli Section, Somandapalli, Ananthapuram District.
3. The Superintendent, Office of the NACIN SITE, Palasamudram Village, Gorantla Mandal, Ananthapuram District.
4. One CC to Sri P. V. Raghu Ram, Advocate [OPUC]
5. One CC to Sri N. Harinath, Deputy Solicitor General of India [OPUC]
6. One CC to Sri V.R. Reddy Kovvuri, SC for APSPDCL (OPUC)
7. One CC to Sri M.V.J.K. Kumar, SC for Central Excise, Customs & Services Tax (OPUC)
8. Two C.D. Copies

Cnr

Pujita

HIGH COURT

DATED:28/04/2023

ORDER

I.A. No.1 of 2021 and I.A. No.1 of 2022
in
WP.No.19960 of 2020

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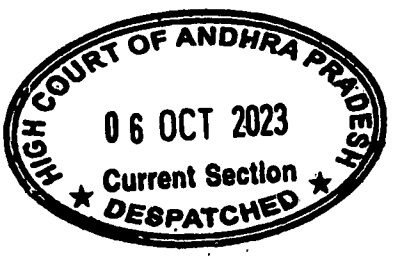

ALLOWING THE I.As
WITHOUT COSTS