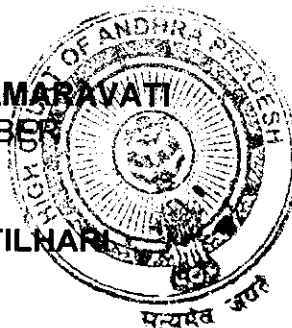


**(SPECIAL ORIGINAL JURISDICTION)**  
**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**  
FRIDAY, THE FOURTEENTH DAY OF OCTOBER  
TWO THOUSAND AND TWENTY TWO

**:PRESENT:**

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**  
**WRIT PETITION NO: 33587 OF 2022**



**Between:**

Shaik Kareem, S/o of Shaik Ismail, Muslim, Business, aged 55 years R/o Door No. 29-27-18, Lakshmivarapupeta, Rajamahendravaram, Rajamahendravaram District

**Petitioner**

**AND**

1. The State Of AP, Rep by its Prl. Secretary, Municipal Administration Department, Secretariat, Velagapudi, Guntur District.
2. The Rajamahendravaram Municipal Corporation, Rep. by its Commissioner, Rajamahendravaram, Rajamahendravaram 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 declaring the action on the part of the Respondent no.2 in placing a Banner proposing to take 189.44 sq.yards of site for the purpose of road widening in front of the property of the Petitioner i.e., Ava Road leading to Balajipeta, back side to Rajamahendravaram Railway Station, Rajamahendravaram, East Godavari District, from out of the Petitioner's vacant site surrounded by compound wall which is of a total extent of 780 sq.yards in T.S.No. 445/2 and also proposing to take 20 feet width X 69 Feet length = 153.33 sq.yards of Petitioner's second side 1020 sq.yards of vacant site situated in R.S.No. 457 and 1044/2 of Ava Road leading to Balajipeta, back side to Rajamahendravaram Railway Station, Rajamahendravaram, East Godavari District, without following the procedure as contemplated under the Land Acquisition Act, 2013 and proposing to proceed further in taking away the land of the Petitioner of a total extent of 342.77 sq.yards of the two sites afore mentioned, though Petitioner has not accepted for the demand of the Respondent no.2 is nothing but high handed, unlawful, unreasonable and in violation of the Principles of Natural Justice and Fundamental Rights guaranteed under Art. 14, 21 and 300 - A of the Constitution of India and Rules made there under by consequently directing the Respondent no.2 not to acquire the properties of the Petitioner aforementioned without following due process of law.

**IA NO: 1 OF 2022**

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 Grant Interim Orders of Injunction restraining the Respondent no.2, their men, staff and all those persons claiming right under the Respondent no.2 from not interfering with the possession and enjoyment of the properties of the Petitioner i.e., total extent of 780 sq.yards in T.S.No. 445/2 (as per Regd. Sale Deed doc.No. 1306/1999) and also proposing to take 20 feet width x 69 feet length - 153.33 sq.yards of Petitioner's second site 1020 sq.yards of vacant site in R.S.No. 457 and 1044/2 (as per Regd. Sale deeds doc.No. 993/1997 and 462/2000) existing in Ava Road leading to Balajipeta, backside to Rajamahendravaram Railway Station, Rajamahendravaram

East Godavari District, until further orders of this Honourable Court, Pending disposal of WP 33587 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri P RAJESH BABU Advocate for the Petitioners and of GP FOR MUNICIPAL ADMN URBAN DEV for the Respondent No.1, Sri M MANOHAR REDDY, Standing Counsel for Respondent No.2 and the Court made the following.

**ORDER**

"Sri P.Rajesh Babu, learned counsel for the petitioner submits that without following due process of law, the petitioner's land is sought to be taken for road widening just by placing the banner on the site, asking the land owner to approach Town Planning Staff for further future action, with request to cooperate.

He submits that if the petitioner's land is to be taken for road widening, the procedure under Municipal Corporation Act, is firstly by agreement with the land owner under Section 146 and thereafter, if the land owner is not willing to give by agreement, to acquire under Section 147. He submits that when pursuant to the said banner, the petitioner expressed displeasure to give the site, the staff of the respondent No.2 stated that the site will be taken for road widening and the TDR bonds by way of compensation will be issued, which is contrary to law as the petitioner cannot be forced or compelled to take TDR Bonds without his willingness to give the land/property.

Sri G.Naresh Kumar, learned Standing Counsel for the respondent No.2, represents that it is not clear from the material on record, as on today, whether any notice under Section 146 of the Act was given to the petitioner or not. He requests for time to seek instructions. He fairly submits that the land of the petitioner cannot be taken for any public purpose, without following due process of law under Sections 146 and 147 of the Act.

List on 03.11.2022, to enable Sri G.Naresh Kumar, to obtain instructions in the matter.

Till the next date of listing, no coercive action will be taken against the petitioner's land/property nor the same shall be utilized for road widening, without following due process of law."

Sd/- K. SRINIVASA RAJU  
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Prl. Secretary, Municipal Administration Department, Secretariat, Velagapudi, Guntur District.

2. The Commissioner, Rajamahendravaram Municipal Corporation, Rajamahendravaram, Rajamahendravaram District (Addressess 1 & 2 by RPAD)
3. One CC to SRI. P RAJESH BABU Advocate [OPUC]
4. One CC to SRI. M MANOHAR REDDY, Standing Counsel [OPUC]
5. Two CCs to GP FOR MUNICIPAL ADMN URBAN DEV ,High Court Of Andhra Pradesh. [OUT]
6. One spare copy.

psk

**HIGH COURT**

**RNTJ**

**DATED:14/10/2022**

**LIST ON 03.11.2022**

**ORDER**

**WP.No.33587 of 2022**

**DIRECTION**

