

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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Writ Petition No.23920 of 2004

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Date: 31st January, 2006

Between:

Smt.B.Indra Bai W/o.late Madhav Rao, R/o.H.No.4-5-52,
Ambarpet, Nizamabad.

..... PETITIONER

AND

1.The Govt. of A.P., rep. by its Secretary,
Municipal Administration, Secretariat,
Hyderabad and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No.23920 of 2004

ORDER:

This writ petition has been filed by Smt.B.Indra Bai with a prayer to issue a writ, order or direction more particularly one in the nature of writ of Mandamus directing the Government of Andhra Pradesh represented by its Secretary, Municipal Administration, Secretariat, Hyderabad-1st respondent; the District Collector, Nizamabad-2nd respondent and the Commissioner, Nizamabad Municipality, Nizamabad-3rd respondent not to dispossess the petitioner from her patta land admeasuring Ac.2.17 guntas comprising Survey No.132 and Ac.0.39 guntas comprising Survey No.134/EE situated at Kanteshwar Shivar, Nizamabad District for

the purpose of laying road from Kanteshwar to Khanapur.

2. It is the grievance of the petitioner that the Commissioner, Nizamabad Municipality, Nizamabad-3rd respondent is proposing to lay a road through her patta land and therefore, she approached this Court invoking the jurisdiction under Article 226 of the Constitution of India with the prayer stated supra.

3. Counter-affidavit has been filed by the 3rd respondent. It is stated in the counter affidavit that the Commissioner, Nizamabad Municipality, Nizamabad-3rd respondent never proposed to lay the road through the patta land of the petitioner. Para.3 of the counter affidavit needs to be noted and it is thus:

“3. It is respectfully submitted that in reply to para.2 it is submitted that this respondent has never interfered with the possession of the land of the petitioner. The averment of the petitioner is false and baseless as my subordinates never tried to dispossess the petitioner from her patta land situated at Kanteshwar Shivar, Nizamabad for the purpose of laying road from Kanteshwar to Kanapur through the petitioner's land. It is submitted that this respondent being a responsible public servant, has to act as per Laws and Acts. It is to submit that this respondent has not violated any of the rules i.e, norms or any Acts. This respondent has dumped the gravel in the vacant lands, which were left in the approved layouts i.e., up to D54 canal (from Armour Road)(PWD), only to safeguard the layout roads and open places from being encroached unauthorisedly creating public nuisance. In view of the same, issuing of notices and initiating land acquisition proceeding does not arise at this juncture. This respondent has never dumped the gravel unauthorisedly in any private land nor in the petitioner's land, and as such, the averment of the petitioner is false and baseless. This writ petition is filed only on imagination and assumption that the respondents are proposing to lay a road across the petitioner's land.”

4. Heard learned counsel appearing for the petitioner, learned Government Pleader for Land Acquisition appearing for the respondents 1 and 2 and learned Standing Counsel appearing for the 3rd respondent.

5. Learned counsel appearing for the petitioner submits that on an earlier occasion when the Government proposed to lay the road through the land of the petitioner without following the due procedure, she approached this Court by filing

W.P.No.22977 of 2003 and obtained interim orders therein. He further submits that since the Commissioner, Nizamabad Municipality-3rd respondent is proposing to lay the road through the patta land of the petitioner, she has chosen to approach this Court by filing the present writ petition with the prayer stated supra.

6. In the counter affidavit of the 3rd respondent, a specific assertion has been made that the 3rd respondent is not proposing to lay any road through the patta land of the petitioner. In view of the said assertion, I find that the contention of the petitioner that the 3rd respondent proposed to lay road on her land has no basis and it is the misconception of the petitioner.

7. Accordingly, the writ petition is dismissed. No costs.

B.SESHASAYANA REDDY, J.

Date: 31st January, 2006.

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