

**(2000) 03 AP CK 0077**

**In the Andhra Pradesh High Court**

**Case No : Writ Petition No. 9780 of 1999**

Bantharam Bichappa and others

APPELLANT

Vs

District Collector, R.R. Dist. and others

RESPONDENT

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**Date of Decision : 28-03-2000**

**Acts Referred:**

Constitution of India, 1950 — Article 300  
Land Acquisition Act, 1894 — Section 4(1)

**Citation :** (2000) 4 ALD 206 : (2000) 3 ALT 744

**Hon'ble Judges :** Bilal Nazki, J

**Bench :** Single Bench

**Advocate :** Mr. G. Anandam and Mrs. M. Padmalatha Yadav, for the Appellant;  
Government Pleader for Land Acquisition and Government Pleader for Irrigation  
and CAD, for the Respondent

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## **Judgement**

1. This is a writ petition tiled by four persons. The grievance of the petitioners is that their land was taken but no compensation had been paid. During the course of hearing, after the counters were filed, this Court found that land admeasuring 3.5 acres belonging to first petitioner had been taken possession of by an Executive Engineer in December, 1998. The possession had been taken without any authority of law.

2. Every citizen in this country has right to possess property and it is settled law that .1 citizen cannot be deprived of his property ordinarily, but in the interests of the State the property can be taken away subject to limitations prescribed by law. Therefore, a full-Hedged Code has been enacted in the form of Land Acquisition Act. The State has no power or authority to enter into anybody's property unless and until a notification u/s 4 of the Land Acquisition Act is promulgated. Here is a case where land was taken, it was put to use and even the notification assuming the jurisdiction to acquire the land has not been issued. This position was conceded at the Bar, therefore, this Court issued show-cause notice to the Officers concerned who have filed their reply. The Officers have not justified their action but have tried to explain by taking recourse to public

interest and also suggested that the land had been taken possession of with the consent of the petitioners. No such consent was produced before the Court and even if it is accepted that the owners (petitioners) had given oral consent for handing over the possession to the Officers concerned, even then in my view the Officers were not within their rights to take over the possession because those Officers were acting as the Agents of the Government and the Government could enter into a private property only after assumption of jurisdiction which could be assumed only after issuance of notification u/s 4(1) of the Land Acquisition Act. Since the Government had not assumed the jurisdiction to acquire the property, therefore the Officers of the Government even with the consent of the parties concerned were not right in taking over the possession of the land. Section 4(2) of the Land Acquisition Act makes it lawful for any Officer who is generally or specially authorised by the Government to enter upon a land which is notified in terms of Section 4(1). Therefore, it is clearly laid down that no Officer of the State Government is authorised to enter upon or take possession of the land belonging to private individuals unless and until a notification u/s 4(1) is published.

3. During the pendency of this writ petition a notification was issued, 80% of compensation was paid to the petitioners and it is stated at the Bar that the award has also been passed and the land has also been put to use for which it had been acquired. Keeping in view all these factors, I do not consider it appropriate to pass any further orders in this petition.

4. Show-cause notices have been issued to the Officers concerned. Although their explanations are not satisfactory but considering the fact that one of them has retired from service and others are also having long service, no further orders are passed in pursuance to the show-cause notice.

5. In order to avoid such incidents in future. I direct that a copy of this order be sent to the Chief Secretary to the Government of Andhra Pradesh and he be requested to issue a circular to all the Government Officials directing them not to enter into private properties except through due process of law which would mean, after assuming the jurisdiction to acquire the land or property in accordance with the provisions of Land Acquisition Act.

6. The writ petition is accordingly disposed of.