

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.39237 OF 2012

ORDER

The case of the petitioners is that they are the absolute owners and possessors of house property in an extent of Ac.0.72 1/2 cents of land in R.S.No.65/3 of Karunagunta, Bhimavaram Town and the 3rd respondent issued pattas in favour of the petitioners vide proceedings in R.C.No.357/99(D), dated 13.07.2005 vide plot Nos.57 and 58 respectively. Thereafter, the petitioners have constructed pucca houses consisting of four room in the said site and made an application to the Municipality for levying of house tax. While so, on 15.12.2012, the staff of the 2nd respondent-Municipality visited the petitioners' property and tried to demolish the same. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 2nd respondent stating that the 3rd respondent has not given any pattas in R.S.No.65/3 and that the land in L.P.No.82/94 in R.S.No.65/2 is reserved open space and that the petitioners have encroached into the open space. It is also stated that as it is the responsibility of the 2nd respondent to protect the reserved open spaces and municipal sites, it has demolished all the encroachments in R.S.No.65/2 including that of the petitioners. It is also stated in the counter that the petitioners are in no way concerned with R.S.No.65/2.

Reply affidavit is filed by the petitioners reiterating the averments in the writ petition.

Considering the rival contentions, whether the property in question falls under R.S.No.65/2 or 65/3 is a disputed question of fact which cannot be decided by this Court in exercise of writ jurisdiction under Article 226 of Constitution of India.

Hence, the writ petition is dismissed. However, it is open for the petitioners to avail alternative remedies available for them under law.

There shall be no order as to costs.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 24.08.2015

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