

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.33113 of 2012

ORDER:

-

Heard learned counsel for the petitioner and Government Pleader for Revenue. With the consent of both the parties, the main writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in forcibly trying to lay the road within the church premises situated in Sy.No.117/2 (old) and Sy.No.73/10 (New), of Bommaipally Village, Vedukuppam Mandal, Chittoor District, without following the due process of law, as illegal, arbitrary and violative of principles of natural justice.

The petitioner herein is a member of Pastorate Committee, C.S.I., Kothapally Mitta Pastorate, Church Compound, Kothapally Mitta, Chittoor District. The Church of South India consisting of the Australian Presbyterian Mission of Presbyterian Church and other churches were formed on 27.09.1947 at St. George Cathedral, Madras. The Australian Mission, under the banker of Church of South India, purchased 23 cents of land situated in Sy.No.117/2 (old) and Sy.No.73/10 (New) of Bommaipally Village, for the purpose of construction of church, through a registered sale deed dated 04.02.1949 and subsequently the church building was constructed and 150 families, who are believers of Christian faith and religion attended the services of the church regularly on Sundays and on other important occasions. It is said that while the Church committee was trying to construct a community hall in

the said premises, the third respondent raised several objections and directed the church committee not to construct the community hall. It was informed that there is a proposal for laying a public road through the center of the church premises. On 29.11.2009, the Pastorate made a representation to the second respondent requesting him not to lay any road in the church premises as the property of the church is a patta land and purchased through a registered sale deed. It is averred that, while things stood thus, the third respondent is planning to lay road in the vacant land for the public purpose without issuing any notice or without following due process of law. Hence, the present writ petition.

A counter came to be filed denying the averments made in the affidavit filed in support of the writ petition. In Para No.4 of the counter, it is averred that the allegation that the third respondent is planning to lay road through the vacant land for the public purpose without issuing any notice or following due process of law is denied. They also denied the allegation that the third respondent is continuously disturbing the church committee and trying to lay a road in the church premises. It has been stated that on 02.05.2012 the villagers of Bommaipalli made a representation before the Special Officer, stating that the church authorities are objecting the villagers and are not allowing them to pass beside the Church and requested to provide the way to the village. In addition to the church building there are nearly seventy residential houses existing in the village. Even in Para No.5 of the counter it is stated that the land in question is the village site poramboke. All the powers over the village site are vested with the government and the road beside the church building is a customary easement of the villagers of Bommaipalli. It is also

stated that the land on which the villagers are walking is not a private property to follow the Land Acquisition Proceedings.

In any event, it is to be noted that if the church is in possession of the land and if the Government intends to lay a road through the said land, the respondent authorities shall follow due process of law before taking any steps for laying the road. Even assuming that the land is a government land and that the church is in possession of the same, the respondents shall issue a notice to the petitioner and follow due process of law before taking any steps.

With the above direction, the writ petition is disposed of.
No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

02.12.2015
gkv