

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.16359 of 2009

Date: 21.01.2015

Between:

Shaik Subhani s/o.Shaik Dawood,
Aged about 45 years, R/o. Eedipugallu Village,
Kankipadu Mandal, Krishna District and two
others.

.. Petitioners

AND

The Collector, Krishna, Chilakalapudi,
Machilipatnam, Krishna District and
three others.

.. Respondents

The Court made the following:

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ORDER:

Petitioners are residents of Eedipugallu Village, Kankipadu Mandal, Krishna District. Petitioners contend that land to an extent of Ac.2.12 cents in R.S.No.396 of the village is burial ground and it is described in the revenue record as "Rudra Bhoomi". Fourth respondent is also native of same village and owns land in Sy.No.397, which is adjacent to burial ground. The grievance of the petitioners is that fourth respondent is trying to encroach upon burial ground and was attempting to formation of a road through burial ground to reach their lands, which is *ex facie* illegal. Earlier petitioners instituted Writ Petition No.26159 of 2008 on the apprehension that fourth respondent has encroached the land in Sy.No.396 to an extent of Ac.0.07 cents and though representations were submitted against such illegal encroachment, no action is taken. When writ petition was taken up for hearing on behalf of the State, Court was informed that there was no proposal to allot the land to the fourth respondent and that respondents have taken up strengthening the existing road in R.S.No.396. Recording the same writ petition was dismissed.

2. This writ petition is instituted alleging that in spite of the undertaking given by the respondent-State before this Court, they are actively considering allocation of Ac.0.07 cents of land in Sy.No.396 to the fourth respondent and fourth respondent dumped the material on the land in Sy.No.396 for the purpose of formation of a road to reach their lands in Sy.No.396 and said action is *ex facie* illegal.

3. Counter-affidavit is filed on behalf of the respondent Nos. 1 to 3. It is averred that it has not come to the notice of the respondents that fourth respondent has dumped soil in Sy.No.396. The Revenue Divisional Officer was warned to be careful hereafter and not to allow any person to enter into the land. It is further deposed that fourth respondent has not encroached the land in Sy.No.396 and has not taken any further action to lay a road as alleged in the writ petition. A close vigil is kept and it is ensured that no encroachment takes place. In the additional counter-affidavit, it is further averred in para-4 that land is free from any kind of encroachments and said land is not being utilized as pathway.

4. Learned counsel representing fourth respondent, on instructions, submits that fourth respondent has not encroached the burial ground and does not make any attempt to lay a road in Sy.No.396 and only a false allegation is made against him.

5. Having regard the statement of the respondents in the additional counter-affidavit and the statement of the learned counsel representing fourth respondent, the grievance of the petitioners does not survive. As seen from the averments in the counter-affidavit, the land in Sy.No.396 is free from encroachments nor the land is being used as

pathway. However, the villagers continue to express apprehension over misuse of land which is earmarked as burial ground. The respondents authorities shall take steps to put a fencing around the burial ground in Sy.No.396 to avoid future encroachments or illegal use of the land by unauthorized persons.

6. Accordingly, the writ petition is disposed of. No costs. Miscellaneous petitions if any pending in this writ petition shall stand closed.

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