

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.27580 OF 2011

DATED:12-6-2015

Between:

K.S.V. Satyanarayana
and others

... Petitioners

And

Superintendent Engineer
Irrigation Dept.,
Eluru,
W.G. Dist.,
and others

... Respondents

COUNSEL FOR THE PETITIONERS: Mr. Ch. Dhanamjaya

COUNSEL FOR RESPONDENT NOS.1, 2, 3, 7 and 8: A.G.P. for
Irrigation &

C.A.D (AP)

COUNSEL FOR RESPONDENT NO.4: None appeared

COUNSEL FOR RESPONDENT NOS.5, 6 and 9: G.P. for Revenue

COUNSEL FOR RESPONDENT NO.10: Mr. K. Gopal, for Mr. P.
Durga Prasad

THE COURT MADE THE FOLLOWING:

ORDER:

-

This writ petition is filed for a Mandamus to declare the action of the respondents in permitting respondent No.10 to make construction of building complex over the land belonging to Irrigation Department, in R.S. No.164, Palakol in West Godavari District, within the boundaries mentioned therein, as illegal and arbitrary.

Respondent No.10 has filed a detailed counter wherein he has claimed the ownership over the land in question. He has also pleaded that as some of the villagers have tried to interfere with his possession of the property, he has filed O.S. No.181 of 2011 in the Court of Principal Junior Civil Judge, Palakol, for permanent injunction and also secured an interim injunction in I.A. No.763 of 2011 in the said suit and that the suit is pending and the injunction order is subsisting. In support of his plea that he is the absolute owner of the property, he has filed a copy of the sale deed dt.20.5.2010.

Though the writ petition is pending for the last four years, none of the official respondents have filed counter affidavit.

While it is the case of the petitioners that the land in question belongs to the Irrigation Department, respondent No.10 claims that the said land is a private land and that the title is vested in him. It is not possible for this Court exercising its jurisdiction under Article 226 of the Constitution of India to decide this disputed question of fact. Inasmuch as the civil suit filed by respondent No.10 is pending, it is appropriate that the issue of title over the land is adjudicated by the Civil Court. Since the petitioners assert that they have a right to use the land as it allegedly belongs to the Irrigation Department, they may

file a comprehensive suit against respondent No.10 and the Irrigation Department seeking appropriate reliefs. Since the interim order was granted as far back as 30.9.2011, which was extended by order dt.19.10.2011 in W.P.M.P. No.34018 of 2011, the same shall be continued for a period of three months.

Subject to the above directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P. No.34018 of 2011 shall stand disposed of, and W.V.M.P. Nos.4450 of 2011 and 1546 of 2012 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

12-6-2015

bnr