

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.1959 OF 2015

ORDER:

This Writ Petition is filed aggrieved by the action of the 3rd respondent in issuing proceedings dated 16.01.2015, in Rc.No.J4/4571/14 calling upon the petitioner to handover possession of the land in question, notwithstanding the subsistence of an interim direction granted by this Court in W.P.M.P.No.46143 of 2014 in W.P.No.36874 of 2014.

It is the case of the petitioner that he is the absolute owner and possessor of an extent of 400 sq. yards of land in Survey No.177 of Adavivaram Village, Visakhapatnam Rural Mandal, Visakhapatnam District, having purchased the same under a registered sale deed dated 30.09.1997 from its vendor. It is also stated that the said village is an Inam Village and was notified under the provisions of the A.P. (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 (for short ' the Act'). The land in Survey No.177 of Adavivaram Village is reflected in the Inam B register and the said land is not to be granted in favour of the 2nd respondent temple, nor to be shown as a grant burdened with the condition of service to the 2nd respondent temple. The 2nd respondent has nothing to do, whatsoever, with the land in Survey No.177 of Adavivaram Village and Ryotwari patta was also granted in favour of the petitioner vide proceedings in AIP No.07/2014, dated 30.03.2014 and that the petitioner is running Kalyana Mandapam. The said Kalyana Mandapam was damaged in the recent cyclone. As the 2nd respondent was not allowing the petitioner to reconstruct the same, W.P.No.36874 of 2014 was filed before this Court and that this Court granted interim direction on 02.12.2014. In spite of the said interim direction, the respondents issued notice dated 16.01.2015 asking the

petitioner to vacate the premises, otherwise, necessary action will be initiated under Section 83 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act 30 of 1987) for recovery of land in Survey No.176/P.

The learned counsel for the petitioner while reiterating the contents in writ petition submitted that respondent No.3 has no power to issue impugned notice and it is for Tribunal which can pass orders under Section 83 of the Act. He further contended that it is for the Assistant Commissioner, who can report to Tribunal.

On the other hand, learned Standing Counsel appearing for the 2nd respondent on instructions submitted that orders in the earlier writ petition, pertains to the land in Survey No.177 of Adavivaram Village, whereas this notice is issued in respect of Survey No.176/P, Adavivaram Village. Under the guise of interim orders in the earlier writ petition, the petitioners are making constructions in Survey No.176/P.

The impugned notice is issued only for taking further action under Section 83 of the Act for recovery of possession of land. If at all any action is taken under Section 83 of the Act, the petitioner can defend himself by raising all the contentions which are raised herein. The impugned notice does not indicate that petitioner will be evicted straightaway but only he was asked to vacate and in default action will be initiated under Section 83 of the Act for recovery of possession as such there is no threat of demolition. Admittedly, the earlier writ petition is filed in respect of Survey No.177 and not Survey No.176/P. In view of the same, the writ petition is misconceived. It is not the case of the petitioner in the writ affidavit that there is any dispute with regard to the identity of the property. Therefore, I do not see any merit in the writ petition.

Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

A.RAJASHEKER REDDY, J

05.02.2015
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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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