

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.3744 OF 2012

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the notice dated 16.12.2011 and consequential notice dated 22.12.2011 issued by the 1st respondent directing the petitioner to stop the work in the site of an extent of 83.0 Sq.Ys, in Sy.No.70/1, Utrumilli Village, Ramachandrapuram Mandal, East Godavari District, as illegal and arbitrary and for a consequential direction to the respondents not to interfere with the peaceful possession and enjoyment of the petitioner.

The case of the petitioner is that she is in possession and enjoyment of the property of an extent of 83.0 Sq.Ys in Survey No.70/1, Utrumilli Village, Ramachandrapuram Mandal, East Godavari District, having purchased the same through a registered sale deed vide Document No.3136/2011, dated 19.11.2011. While so, the 1st respondent on 16.12.2011 has issued a notice in favour of petitioner's husband to stop the work contending that they have issued notice on 27.11.2011 to stop the work and as there was no reply from the petitioner's side, issued notice dated 16.12.2011. Thereafter, the petitioner submitted reply on 21.12.2011 to the notice dated 16.12.2011 contending that the site is a private site of the petitioner's vendor and they have purchased the site by virtue of the registered sale deed. The petitioner further states that they have not received any notice earlier. Thereafter, the 2nd respondent by notice dated 22.12.2011 informed the petitioner not to make any structures in the subject site till the survey is conducted. The petitioner further states that the 1st respondent is

not supposed to stop the work on the ground of survey and the correspondence itself shows that the same has been issued casually. The petitioner also states that she has invested amount for purchase of wooden poles etc. and that most of the work has been completed and at this stage if the work is stopped they will be put to serious loss. Hence, she filed the present writ petition.

The 1st respondent filed counter stating that the land in Sy.No.70/1 of Utrumilli Village to an extent of 83 Sq.Ys belongs to the Utrumilli Gram Panchayat; that the records being maintained by the Gram Panchayat, Utrumilli clearly shows that the said land is used for the purpose of public lavatory for women in the village since long back; that since in the year 2007 the Government has taken a policy decision for demolition of the open public lavatories, the said public lavatory was demolished; and that the structures of the demolished portion of the public lavatory is also very much evident in the subject land in Sy.No.70/1 which is surveyed by the Mandal Surveyor of Ramachandrapuram after issuing the notice to the petitioner. It is also stated that the Mandal Surveyor of Ramachandrapuram submitted a detailed survey report to the Tahsildar, Ramachandrapura on 15.02.2012 and that the Tahsildar, Ramachandrapuram has submitted the said report to the MPDO on 17.02.2012. Thereafter, the MPDO, Ramachandrapuram instructed the 1st respondent to protect the said land which belongs to the Gram Panchayat. It is also stated that the Village Revenue Officer has also given a certificate by verifying the revenue records that the land in Sy.No.70/1 in Utrumilli Village to an extent of 83 Sq.ys belongs to the Gram Panchayat; and that the sale deed filed along with the writ petition at column of survey number, it is written as 70/1 with the manual script whereas the entire sale deed is typed

in telugu. It is also stated that the 1st respondent issued notice on 27.11.2011 to the petitioner stating that the land encroached by the petitioner is belongs to the Gram Panchayat and the same was used as public toilet for the village women and not to encroach upon the same, failing which action will be initiated according to the Panchayat Raj Act, which was refused by the petitioner's husband herein and that the same was recorded by the subordinate staff of Gram Panchayat who went to serve the notice and when the petitioner suppressing the same again tried to encroach upon the said land, this respondent issued urgent notice dated 16.12.2011, and that so far this respondent has not received any reply to the notice dated 16.12.2011. Finally, this respondent prayed to dismiss the writ petition.

Heard learned counsel for the petitioner and Sri Ravi Cheemalapati, learned counsel for the respondents.

The respondents disputes the title and possession of the petitioner by filing counter affidavit and also appointed a surveyor and basing on the survey report they wanted to protect the Gram Panchayat land. Petitioner asserts that by virtue of sale deed, he is in possession of the subject property. These all are disputed questions of fact which cannot be decided in the writ petition. Hence, I am not inclined to entertain the writ petition.

Accordingly, the writ petition is dismissed. However, it is open for the petitioner to approach appropriate Civil Court for asserting right title and possession. No order as to costs.

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

01.09.2015
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A.RAJASHEKER REDDY, J