

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.6234 OF 2011

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the 1st respondent i.e. Salur Municipality, Vizianagarm District in issuing the impugned proceedings No.IFB.1-1255/2004-E1, dated 29.01.2011, calling for tenders for construction of shopping complex in the land admeasuring an extent of Ac.1.00 situated in Sy.No.162/2 and 161/1C belonging to the petitioner temple, popularly called as Pedda Market in Salur town, Vizianagaram District, as illegal and arbitrary.

It is the case of the petitioner that the Salur Zamindar endowed Ac.12.00 cents of land to the petitioner temple by way of registered gift deed No.486, dated 19.08.1900 and that the subject land of Ac.1.00 cents which is being called as 'Peda Market' is also a part and parcel of Sy.No.162/2 and Sy.No.162/1C and the same is indicated in the revenue records and relating to the same pattedar pass books were issued and the petitioner temple is also paying the land revenue. The petitioner temple is in possession and enjoyment of the site in Sy.No.162/2 and 162/1C. While so, with the permission of the predecessors of the petitioner temple's trustee, several Government Offices were established which were during the rule of Britishers. The offices such as Sub-Treasury Office, Sub-Registrar's office, Sub-jail and recent Rural police station were also established. All these Government offices were established in the site belonging to the petitioner temple to an extent of about Acs.6.00. Till date the temple remained to be a private temple not registered under the provisions of the Act.

While things stood thus, the 1st respondent municipality made a proposal for construction of shopping complex in the market site and issued proceedings in IFB No.1-1255/2004-E1, dated 29.01.2011 calling for tenders in the said land belonging to the petitioner temple. Aggrieved by the same, present writ petition is filed.

This Court on 11.03.2011 granted stay of construction on the subject land by the municipality. Thereafter, the 1st respondent filed Counter affidavit denying the averments made in the writ petition. The petitioner also filed reply affidavit denying the averments made in the counter.

Learned counsel for the petitioner Sri M.Vidyasagar as well as Sri Nimmagadda Venkateswarlu, learned counsel for the 1st respondent states that already suit for declaration of title is filed before the Civil Court by the petitioner and status quo orders were granted.

In view of the above since already comprehensive suit is filed and status quo orders were granted, for which the petitioner as well as respondents are parties and that the issue pertains to property rights and declaration of title, it is appropriate that Civil Court decide the same. This Court cannot entertain the same and declare title in the writ petition.

In view of the same, I do not see any merits in the writ petition. Accordingly, the writ petition is dismissed. However, it is open for the petitioner as well as respondents to raise their respective claims in the suit and the suit shall be decided on merits without being influenced by any of the observations made in the writ petition. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending

shall stand closed.

25.08.2015
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A.RAJASHEKER REDDY, J