

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.8427 OF 2016

ORDER:

The Writ Petition is filed seeking a Writ of Mandamus declaring the notice dated 10.03.2016, as illegal and arbitrary.

The sum and substance of the notice is that the Market Committee is the owner of the land in Survey No.1 for an extent of 0.07 gts and that a compound wall and room were constructed in the said land. The notice further directs the petitioners to remove the room and the compound wall, as otherwise necessary action in accordance with law would be taken. Learned counsel for the petitioners submits that the same is unwarranted, as the petitioners have not encroached in the land in Survey No.1 and the construction was made only in Survey No.98/2. In that view of the matter, learned counsel seeks an injunction order against the respondents.

Having considered the arguments of the learned counsel for the petitioners, this is not a fit case for interference in writ jurisdiction. A *prima facie* reading of the notice only directs the petitioners on the assumption that there is an encroachment into Survey No.1 whereas the petitioners assert as otherwise. It is not the case of the petitioners or the purport of the notice that the respondents have taken action. What all is set out on notice is that the petitioners have encroached in Survey No.1 and if necessary, steps will be independently taken for removing the said encroachments in accordance with law. The mere caution that action would be taken in accordance with law would not give rise to cause of action as the authorities themselves are conscious of the fact that they would take action only in accordance with law. Learned counsel for the petitioners submits that the petitioners offered an explanation denying the allegations of encroachment. Before taking any action, the respondents shall consider the petitioners' explanation.

Accordingly, the Writ Petition is disposed of. There shall be no

order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(CHALLA KODANDA RAM, J)

15th March 2016
RRB