

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.13278 OF 2012

ORDER:

Heard Mr. Kalyan Chakravarthy for petitioner and the Assistant Government Pleader for respondents.

The petitioner prays for the following relief:

"..to issue writ or order or direction more so in the nature of Writ of Mandamus, declaring the action of respondent in evicting the petitioner by demolishing the petitioners' property admeasuring 2497.22 square yards in Paradesipalem Village in Sy. No. 90/ 3 within the territorial limits of Visakhapatnam Rural Mandal situated within the Greater Visakhapatnam Municipal Limits, Visakhapatnam without any notice is illegal, arbitrary and highhanded and violative of principles of natural justice and violative of provisions of Greater Hyderabad Municipal Corporation Act and violative of Article 14 and 21 of Constitution of India and set aside the same..".

The 2nd respondent filed counter affidavit opposing the grant of any relief to petitioner. One of the aspects which requires reference in this order reads as follows:

"I submit as verified and identified on ground with reference to the boundaries and measurements of the sale schedule land, as mentioned in the sale deed, DOC.No.2180, dt.21.06.2005 and on having observed the location of the temporary structure or shed, and the fencing of iron sheets raised by the petitioner herein, the subject land is found located in vagu poramboke land in S.No.90(2). The subject land is situated on Northern side of 30 feet-wide road which is formed or passing through some part of Vagu in S.No.90(2), while zeroiyati dry land covered by S.No.90(3) admeasuring Ac.0-77 cents lies on southern side of the said 30 feet- wide road. The truth of the matter is visible at a glance at the Digital colour photo, dt.22.01.2015, which is denoted as Ex.P-31 which is filed by the petitioners in W.P.11105 of 2016 before the Hon'ble Court, to which writ petition the petitioner herein happens to be 16th respondent, and which petition is also pending adjudication by the Hon'ble Court. The petitioner herein has been evading to file his counter affidavit in the above W.,P. No.11105 of 2016."

The mere consideration of the stand of 2nd respondent suggests that the respondents are not only disputing the right and entitlement of petitioner to the petition land, classification is stated Vagu Poramboke and the existence of petition land whether is on the northern side or southern side of the road passing through Survey No.90/3.

Confronted with the above disputed questions of fact/identity, counsel appearing for the petitioner requests the Court to permit the petitioner to avail remedies for protection of right/possession in a properly instituted suit or proceeding.

The request of learned counsel for the petitioner is placed on record and the writ petition is disposed of by granting liberty as prayed for. It is made clear that though reference to counter affidavit in the instant order is made, it shall not be understood as this Court expressing any view on the rival contentions of the parties. No order as to costs.

Miscellaneous petitions pending if any shall stand closed.

S.V.BHATT, J

Date:10.08.2016

Stp