

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.44484 OF 2016

ORDER:

Petitioners claim that they purchased plots in Survey Nos.394/A and 397 of Kutagulla Village, Kadiri Town, Anantapur District. They allege that respondent No.3 – Municipality passed a resolution on 30.10.2015 allotting Ac.0-50 cents of land in the very same Survey Numbers for construction of Minority Boys Hostel and respondent No.4 - Andhra Pradesh Educational Welfare Infrastructure Development Corporation was entrusted with the responsibility of undertaking construction of Minority Boys Hostel. They further allege that petitioner Nos.1 to 6 and 9 to 11 purchased house plots in the year 2006, whereas petitioner Nos.7 and 8 purchased the plots in the year 2016. Vendor of petitioner Nos.7 and 8 obtained building permission in the year 2015, but as he was unable to undertake construction, he sold the property.

2. Based on these facts, learned counsel for the petitioners submits that the subject land is private land and do not belong to respondent No.3 - Municipality and therefore, the Municipality ought not to have allotted the subject land for construction of Minority Boys Hostel, without following due process of law.

3. Learned Standing Counsel, on instructions, submits that the subject land belongs to the Municipality and therefore, the Municipality has allotted the same for construction of Minority Boys Hostel.

4. Petitioners placed on record the resolution passed on 30.10.2015, whereunder the Municipality resolved to allot an extent of Ac.0-50 cents of land in Survey Nos.394/A and 397 for construction of Minority Boys Hostel. It is thus clear that the Municipality is claiming the subject land as belonging to them. On the contrary, the petitioners claim the subject land as belonging to them by contending that their vendors have valid title and the same was passed on to them.

5. Thus, there are rival claims to the property. Who is the actual owner of the subject land is a disputed question of fact, which can be adjudicated by availing the common law remedy. By exercising the power of judicial review under Article 226 of the Constitution of India, this Court cannot hold and decide the ownership of the subject land, when there are two rival claims. Thus, if the petitioners claim that the subject land belongs to them and there is illegal interference by respondent No.3, they must avail common law remedy available to them.

6. Thus, leaving it open to the petitioners to avail the remedies available to them in law, the Writ Petition is dismissed. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. There shall be no order as to costs.

December 21, 2016.
MD

P. NAVEEN RAO, J