

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.1266 of 2016

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Date: 19.01.2016

Between:

Durga Taxi Owners & Drivers Welfare Assn.,
rep. by its President M.Satyanarayana
Rajahmundry and 9 others

.. Petitioners

and

The Municipal Corporation
Rajahmundry rep. by its Commissioner and 5 others

.. Respondents

Counsel for the petitioners : Mr.S.R.Sanku

Counsel for respondent Nos.3 & 4: AGP for Revenue (AP)

Counsel for respondent No.5: GP for Municipal Admn.,(AP)

Counsel for respondent No.6: AGP for Panchayat Raj (AP)

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The Court made the following:

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Order:

The petitioners, who are, admittedly, in occupation of the property belonging to the Government, which is classified as Government Porambok (Kambala Cherruvu), filed this Writ Petition feeling aggrieved by the endorsement in ROC.No.10502/2015–G1, dated 08-01-2016, issued by respondent No.1.

The petitioners have pleaded that the members of petitioner No.1- Association have been using the land, which is called Kambala Cheruvu, as taxi stand and that a small shed with asbestos sheets was constructed therein by petitioner No.1 for preservation of taxi records. The petitioners further averred that the said property is in occupation of petitioner No.1 for the last 31 years and being used as taxi stand and that therefore, they have perfected their right through prescription.

On 22-12-2015, respondent No.1 has issued a show cause notice calling upon petitioner No.1- Association to show cause why the shed erected by it contrary to the provisions of the Greater Hyderabad Municipal Corporation Act, 1955, shall not be removed

departmentally. Petitioner No.1 has submitted its explanation on 26-12-2015 and filed WP.No.878 of 2016 for a Mandamus to set aside the said show cause notice. This Court, while placing on record the submission of the learned Standing Counsel for respondent No.1- Corporation that before taking further action, the latter will pass an appropriate order upon considering the explanation offered by petitioner No.1, dismissed the said Writ Petition. Thereafter, respondent No.1 has issued the impugned endorsement.

A perusal of the impugned endorsement shows that the land in occupation of petitioner No.1 is classified as Government Porambok (Kambala Tank) and that without any right or title, petitioner No.1 has erected a shed therein. Petitioner No.1 has not disputed that the subject land is classified as Government Porambok (Kambala Tank) and that it has erected a shed therein without permission. On these admitted facts and circumstances of the case, this Court does not find any illegality in respondent No.1 issuing the impugned endorsement. If petitioner No.1 claims its right by way of prescription, it can only avail the common

law remedy of a civil suit as such a plea cannot be adjudicated in a Writ Petition under Article 226 of the Constitution of India.

For the above mentioned reasons, I do not find any merit in this Writ Petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.1611 of 2016, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 19th January, 2016
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