

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.10068 of 2012

ORDER

This writ petition is filed seeking to direct the respondents to pay compensation for the damage caused to the petitioner's fame and property.

It is the case of the petitioners that their father purchased house property bearing D.No.12-2-143, and after his death, they succeeded to the said property and they have been in possession since 1987. While so, respondents 5 and 6 wanted to purchase the property and started harassing them and made a complaint to the 1st respondent-Municipal Commissioner. The petitioners were informed by the 2nd respondent about the same, but no action was taken. However, on 31.3.2012, the Building Inspector of the 1st respondent-Municipality came to the spot and demolished a portion of the premises and it was continued on 2.4.2012 also. The Assistant Sub Inspector of Police, who was a tenant of the 5th respondent helped the respondents. The first petitioner lodged a complaint on 3.6.2009 against respondents 5 and 6 and also filed WP No.13573 of 2009, which was disposed of on 2.7.2009 giving liberty to the petitioner to avail his remedy in the event of interference by respondent No.2 in future. This writ petition is filed seeking payment of

compensation for the damages caused to the petitioners' fame and property.

A counter-affidavit is filed on behalf of the 1st respondent stating that a complaint was received from the 5th respondent about the encroachment into the public property made by the writ petitioners. The first respondent addressed letters to the Tahsildar and Mandal Surveyor on 31.10.2011 asking them to measure the disputed area and report. The Mandal Surveyor visited the same and gave a report that the writ petitioners have encroached an extent of 6 ft x 11 ft in field 305 and he submitted a sketch map identifying the area encroached by the petitioners. The Tahsildar, Pithapuram addressed a letter dated 29.12.2011 to the first respondent along with the sketch given by the Mandal Surveyor. The writ petitioners were orally informed about the encroachments made by them for which they replied that they need not remove the encroachments. Hence, the first respondent addressed a letter to the Station House Officer, II Town Police Station, Pithapuram, requesting to depute sufficient police force for the purpose of Bandobust for removal of the encroachment made by the writ petitioners.

Though it was stated in the counter-affidavit with regard to the encroachment made by the writ petitioners, learned counsel appearing for the petitioner submits that there was no encroachment and

demolition was made without issuing any notice. Since the dispute with regard to the encroachment made by the writ petitioners is a disputed question of fact, this Court cannot decide the same in this writ petition. However, it is open to the petitioner to initiate appropriate civil proceedings, if they are aggrieved and claim compensation for the unauthorized demolition.

Subject to the above observations, the Writ Petition is dismissed.

No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE A.RAMALINGESWARA RAO

26th October, 2016
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