

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.29233 of 2012

ORDER:

The writ petition is filed questioning the action of the respondents in seeking to dispossess/interfere with the property of the petitioner bearing Door No.5-10-97, Assessment No.4810, Block No.1/5, Ward No.12 forming part of Sy.No.490 constructed in land admeasuring 76.07 sq. yards situated at Power Office Road, Narasaraopet, Guntur District.

It is the case of the petitioner that he is aggrieved with the notice dated 27.08.2012 issued by the 3rd respondent stating that the petitioner had made constructions in Sy.No.492 the land belonging to the 3rd respondent temple. As the Surveyor had determined the boundaries of Sy.No.492, the 3rd respondent called upon the petitioner to remove the structures within a period of seven days. Hence, the writ petition.

This court while ordering notice before admission granted status quo on 18.09.2012.

A counter-affidavit is filed on behalf of the 3rd respondent stating that the petitioner is claiming that the constructions were made in Sy.No.490 and as a matter of fact the 3rd respondent asserts that the constructions are there in Sy.No.492. However, the allegations made by the petitioner that he came to purchase the property on 17.01.1995 vide registered sale deed dated 17.01.1995 from one Smt Kanaka Susheelamma, wife of Kanaka Ramadasayya is not denied.

The fact that the 3rd respondent issued notice to the petitioner would support the contention of the petitioner that the petitioner is in possession of the property. As can be seen from the averments in the counter-affidavit that on one hand the 3rd respondent claiming the property is situated in Sy.No.492 and on the other hand, the petitioner claiming the property to be in Sy.No.490 leave no manner of doubt that

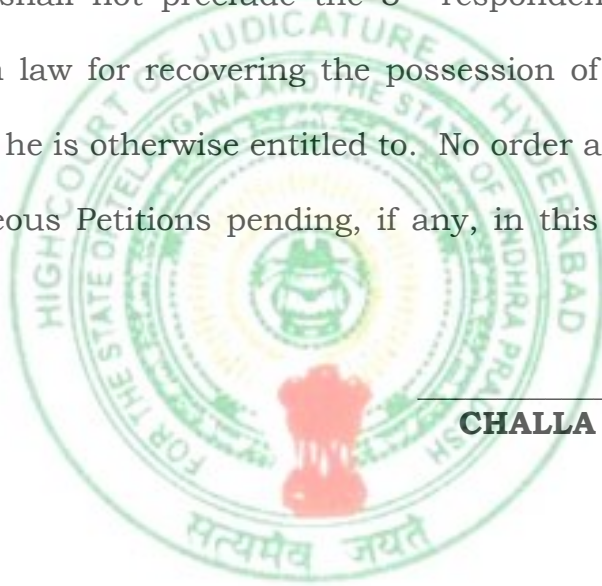
there is a dispute with respect to the identity of the property. In those circumstances, summary eviction procedure as contemplated under the Act is impermissible as the authorities under the Greater Hyderabad Municipal Corporations Act, 1955 (for short, "the Act") are not competent to determine under which survey number the property is situated. In those circumstances, the notice dated 27.08.2012 issued by the 3rd respondent is liable to be set aside.

Accordingly, the writ petition is allowed setting aside the notice dated 27.08.2012, issued by the 3rd respondent. However, it is made clear that the setting aside of the notice dated 27.08.2012 issued by the 3rd respondent shall not preclude the 3rd respondent to take steps in accordance with law for recovering the possession of the property from the petitioner, if he is otherwise entitled to. No order as to costs.

Miscellaneous Petitions pending, if any, in this writ petition shall stand closed.

24.10.2016.
GK

CHALLA KODANDA RAM,J



THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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24.10.2016

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