

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.6307 OF 2009

ORDER:

This writ petition was filed challenging the action of the respondents in trying to dig a drain across the land of the petitioner on the western side in Survey No.52/1 of Balighattam Village, Narsipatnam Mandal, Visakhapatnam District without acquiring the same.

Counter affidavit is filed stating that the drain was constructed within R&B boundaries and there was no encroachment into the petitioner's property and that when the construction of the drain was going on the petitioner did not produce any record. Subsequently, the petitioner asked the Tahsildar to conduct survey. The Tahsildar issued a report dated 01.04.2009 stating that the drains are being laid within Survey No.23 and R&B Department has not encroached the petitioner's land in Survey No.52/1.

However, a reply affidavit is filed by the petitioner stating that an extent of Ac.0.83 ½ cents of his land was occupied for the construction of drain. These are disputed questions of fact, which cannot be decided in a writ petition. The construction of drain is already completed. In the circumstances, it is open to the petitioner to take appropriate legal proceedings, if any part of his land was encroached by the Government for the purpose of construction of drain.

With the above observation, the writ petition is dismissed. There shall be no order as to costs.

Pending miscellaneous petitions in this Writ Petition, if any, shall stand closed in consequence.

A.RAMALINGESWARA RAO, J

01.03.2016

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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