

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.39032 OF 2012

ORDER:

The writ petition is filed challenging the letter dated 07.11.2012, issued by the respondent-Corporation.

It is the specific case of the petitioner that he is the absolute owner and possessor of the land admeasuring 114 sq. yards in Sy.No.287/1, Thamapuram Village, Kakinada Rural Mandal which was acquired by him through a Gift Settlement Deed from his father. Thereafter, the petitioner had approached the Gram Panchayat, Suraraopeta seeking permission to construct the residential tenement and the Gram Panchayat granted the same on 22.07.2011. Even though the respondent-Corporation has nothing to do with the same they have issued the impugned letter under the mistaken impression that the land falls within the Andhra Pradesh Industrial Infrastructure Corporation Park. Infact the respondent-corporation has no manner of right to interfere with the construction of the house of the petitioner.

Counter-affidavit has been filed by the respondent-Corporation raising an objection with regard to maintainability of the writ petition. Further, it is stated that the respondent-corporation has issued the impugned letter/notice in exercise of the powers conferred in them under Section 146 of the A.P. Panchayat Raj Act, 1994 (for short, 'the Act') as the petitioner was making construction on the road margin area. It is the further contention of the respondent-corporation that the Executive Officer, Andhra Pradesh Industrial Infrastructure Corporation is the Local Authority and competent by virtue of Section 147 of the Act and they are vested with the power.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondent-corporation.

A reading of the explanation to Section 147 of the Act declares that APIIC to be treated as a 'Local Authority'. However, such Local Authority is required to be notified and the jurisdiction of such Local Authority so far as the APIIC is concerned is confined to the Industrial

Estate within which notification has been issued.

In the present case, the respondent-Corporation places reliance on G.O.Ms.No.109 dated 09.03.1998 in relation to IOA-Vakalapudi, Kakinada, East Godavari District Industrial Estate has been notified under Section 147 of the Act. However, the particular land which is admittedly in occupation of the petitioner and in which petitioner came to make constructions is within the notified Industrial Estate is a question which is required to be established before any steps are taken by the respondent-Corporation. By merely issuing a letter, the respondent-Corporation cannot require the petitioner to stop construction. In case, the petitioner had occupied the road margin, the procedure contemplated under the provisions of the Act is required to be followed.

Further, even assuming that the petitioner is occupying the land belonging to the respondent-corporation, the proper course for them is to initiate appropriate legal proceedings to assert their property rights. Here in the present case, documents filed along with the writ petition reveals that the Gram Panchayat had granted permission to the petitioner to construct the house. If the respondent-corporation has been entrusted with the powers of the Local Authority as contended by the respondent-corporation, the question of issuance of permission to construct the house by the Gram Panchayat would not have arisen. In that view of the matter, issuance of the impugned letter/notice of such nature is unsustainable and the same is liable to be set aside.

Accordingly, the writ petition is allowed setting aside the notice/letter dated 07.11.2012, issued by the respondent-APIIC. However, it is left open for the respondent-corporation to take appropriate steps in accordance with law to recover/evict the petitioner from the subject land, if they have right. No order as to costs.

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

CHALLA KODANDA RAM,J

Date:04.01.2016.
Gk

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

WRIT PETITION No.39032 OF 2012

-
-
-
-
-
-
-
-
-
-
-

Date:04.01.2016

Gk

