

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.4876 OF 2012

ORDER :

This Writ Petition is filed by the petitioner to declare the action of the respondents 2 and 3 in removing an old dilapidated building, cutting the neem tree and filling the well in the petitioner's property i.e., house bearing door No.1-90 of Aoushapoor village, Ghatkesar Mandal, Ranga Reddy District as illegal and arbitrary and for a direction to the respondents not to interfere with the petitioner's possession over the land admeasuring 604.44 sq.yards without following due process of law.

2. Petitioner contends that he and his two brothers purchased the house bearing door No.1-90 of Aoushapoor village, Ghatkesar Mandal, Ranga Reddy District admeasuring 604.44 sq. yards and since the house became very old and it is in dilapidated condition and is likely to collapse, the petitioner and his family members vacated it and shifted to Hyderabad. According to the petitioner, the house consists of five rooms, W.C., Kitchen, Bathroom two halls and open yard and there is also a well and 100 years old neem tree in the court yard of the house.

3. Petitioner contends that when he went to see the house on 12.02.2012, to his surprise he found that the entire house has been removed, the neem tree was cut and carried away and the well in the premises was closed by filling it with debris of the building material. He alleges that on enquiry he came to know that at the instance of the 2nd respondent, the structure was removed and that the 2nd respondent intends to construct a Grampanchayat Office therein.

4. Petitioner contends that if the respondents want to build anything

in the petitioner's property, they have to acquire the same by following due process of law and the action of the respondents in removing the structures and proposing to construct a building in the petitioner's property is illegal, arbitrary and violative of Articles 14 and 300A of the Constitution of India.

5. No counter affidavit is filed by respondents 1 and 2, in spite of the fact that time has been sought on several occasions, the last one being on 21.06.2016. Therefore, it is treated that there is no counter of respondents 1 and 2.

6. The 3rd respondent filed counter stating that the petitioner may be the owner of the subject property, but it was in a dilapidated condition and it is beside the Gramakantam. It is further stated that the Government sanctioned Rs.10 lakhs for construction of a Grampanchayat building and a resolution was passed on 19.01.2012 to construct such a building in the Grampanchayat situated near Mahankalamma Temple, that a survey was conducted by the Mandal Surveyor and the Grampanchayat now proposed to construct a Grampanchayat building within the Gramakantam land. It was denied that the house of the petitioner was removed by the respondents.

7. Since there is no counter affidavit filed by respondents 1 and 2, the allegation of the petitioner that at the instance of the 2nd respondent his house has been removed, remains uncontroverted.

8. Petitioner had filed copy of the sale deed.dt.28.04.1982 under which he and his two brothers purchased the subject property.

9. If any of the respondents intend to build any structure in the petitioner's property, they have to acquire it under the provisions of the

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

10. Therefore the Writ Petition is allowed; the respondents are restrained from interfering with the possession and enjoyment of the petitioner of the land of 604.44 sq. yards purchased by the petitioner and others under registered sale deed dt.27.04.1982 without acquiring the same under the above statute. There shall be no order as to costs.

11. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

30th June, 2016.

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