

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.43617 OF 2016

Dated:16.12.2016

Between:

Samatha Nimnakula Sanskhema
Sangham, Samatha Nagar, Gandhi
Nagar, Amalapuram, rep., by its
Secretary, Bonthu Madan Kumar
and another

.. Petitioners

AND

The State of Andhra Pradesh, rep., by its
Secretary, Municipal Administration
Secretariat, Hyderabad and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.43617 OF 2016****ORDER:**

Heard. With the consent of learned counsel for the parties, the Writ Petition is disposed of at the stage of admission.

2. The petitioners allege that illegally the building permission was granted to the 3rd respondent and in the guise of the same, she is undertaking construction in the property belonging to them.

3. According to learned counsel for the petitioners, the building permission was applied for Survey No.735/4, whereas the said survey number is classified as wet land and that even though building permission was granted for Survey No.735/4, actually the construction is taking place in Survey Nos.735/3A and 733/1. He placed reliance on the alleged survey conducted by the Mandal Surveyor and his report, dated 26.03.2016.

4. The issue for consideration in this Writ Petition is only confined as to whether the building is being constructed without building permission or in deviation of the building permission. It is not in dispute that the building permission is granted to the 3rd respondent and she is accordingly undertaking construction. The grievance of the petitioners is that in the guise of building permission granted to the 3rd respondent, she is undertaking construction of building in the land belonging to them. In other words, there is apparently a dispute between the petitioners and the 3rd respondent regarding the boundaries of the properties.

5. Learned counsel for the petitioners fairly submits that the petitioners are no way concerned with the land in Survey No.734/4. Thus, if there is encroachment of land belonging to the petitioners or an illegal construction is made, in the guise of obtaining building permission in a different survey number, it is for the petitioners to work out their remedies as available in common law. There is no material to show that the alleged survey was conducted in the presence of the 3rd respondent. Even the Surveyor also holds that the property on which the building permission is obtained was sold long ago. Apparently, since there are disputed questions of fact, this Court in exercise of power under Article 226 of the Constitution of India cannot go into those questions.

6. The Writ Petition is accordingly dismissed leaving it open to the petitioners to work out their remedies as available in law. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:16.12.2016

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