

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.42737 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue writ of Mandamus to declare the action of the Respondents 1 and 3 interfering with the peaceful possession and enjoyment of petitioner's House including old compound wall around the petitioner's House which is situated in R.S.No.444/1B to an extent of 388 Square Yards in Kaikaluru village and Mandal, Krishna District as illegal, arbitrary and contrary to law and further direct the respondents not to interfere with the peaceful possession and enjoyment of the above House and not demolish the compound Wall of the petitioner.”

Heard Sri T.V.V. Koteswara Rao, learned counsel for the petitioner and learned Government Pleaders for Revenue and Irrigation Departments for respondents, apart from perusing the material available before this Court.

Petitioner herein claims to be the absolute owner of the site admeasuring 388 Square Yards in R.S.No.444/1B in Kaikalur village and Mandal, Krishna District. It is the further case of the petitioner herein that his mother Smt.Dandu Laxmikanthamma gifted the said property in his favour by virtue of registered gift deed No.425/2014, dated 25-02-2014 registered on the file of Sub-Registrar's Office, Kaikalur. It is also the case of the petitioner herein that his mother purchased the said property from one K. Siva Kumar vide registered sale deed No.372, dated 22-03-2000 and since then the property has been in their possession and enjoyment. It is further averred in the writ affidavit that on an

application made by the petitioner for construction of building the 4th respondent Kaikalur Gramapanchayat sanctioned the building permission on 12-12-2014 and pursuant to which he constructed a house in accordance with the plan and it is further averred that around the said house there is an old compound wall. It is the further allegation of the petitioner herein that on 29-12-2015 the respondent authorities orally informed the petitioner that they would demolish the compound wall. It is alleged in the writ affidavit that respondents 1 and 3 without giving any notice are trying to demolish the compound wall. It is contended by the learned counsel for the petitioner that the said act of the respondent authorities is illegal, arbitrary, contrary to law and violative of principles of natural justice. In the above background, the present writ petition came to be filed.

It is settled and well-established proposition of law that no citizen of this country shall be deprived of his/her property, except in accordance with the procedure prescribed by law as enshrined under Article 300-A of the Constitution of India. Since it is the specific case of the petitioner herein that the respondent authorities are contemplating to demolish his compound wall without recourse to law this Court deems it appropriate to dispose of the writ petition with a direction to the respondent authorities not to remove the compound wall except by following due process of law.

For the aforesaid reasons, the writ petition is disposed of, directing the respondent authorities not to demolish the structures in R.S.No.444/1B of Kaikalur village belonging to the petitioner.

However, it is made clear that it is open for the respondents herein to proceed, in accordance with law, after giving notice and opportunity of being heard to the petitioner herein. There shall be no order as to costs.

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

A.V. SETHA SAI, J

January 06, 2016

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