

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.6642 OF 2010

ORDER:

The relief sought for in this Writ Petition is for a Writ of mandamus to declare the action of the first respondent, in giving permission for construction of a building vide proceedings dated 31.12.2009, as arbitrary and illegal.

It is the petitioners' case that the third respondent had sought for, and was granted, permission for construction of a building of an extent of Ac.0.2½ cts of land belonging to the petitioners in Sy. No.48 in T.S. No.1938/1 of Srikakulam Municipality; and since a part of the subject land, on which construction was raised, belongs to the petitioner, the first respondent had acted illegally in granting permission to the third respondent to construct a building.

In the counter-affidavit, filed on behalf of the first respondent, it is stated that the third respondent had submitted a plan along with a registered document dated 26.12.2007 for an extent of Ac.0.4½ cts, the same was verified with the link document No.3424 of 1977; and based on these documents, the plan was approved and permission was granted for construction of a building. The power conferred on the Municipal authorities under Section 209 of the Municipalities Act is for grant of permission for construction, if the applicant submits, to the Municipality, a copy of the title deed of the land duly attested by a Gazetted Officer of the Government, along with an Urban Land Ceiling Certificate. From the counter-affidavit, it does appear that permission was granted on the basis of two documents produced by the petitioner. As the Municipality lacks jurisdiction to adjudicate disputed questions

of title, it could not have taken upon itself the task of elaborately examining whether or not a part of the subject land belongs to the petitioner. The petitioner's remedy, to have this dispute resolved, is only by way of a Civil suit before a Civil Court of competent jurisdiction.

Leaving it open to the petitioner to avail such remedies as are available to him in law, to establish his title over the subject land, the Writ Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 03.11.2017.

MRKR

RAMESH RANGANATHAN, ACJ

