

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.13427 of 2017

ORDER:

The petitioner is aggrieved by the action of respondent Nos.3 to 7 in encroaching 12 ft road at Isukathota, Maddilapalem, Visakhapatnam.

It is the contention of the petitioner that respondent Nos.3 to 6, who are the owners of land in D.No.54-3-29, Isukathota, Visakhapatnam, are getting constructed a tenement through respondent No.7 occupying 12 ft road and, without leaving set backs, construction is being made.

Sri S.Laxminarayana Reddy, learned Standing Counsel for respondent No.2 - GVMC, on instructions, would submit that, pursuant to the complaint of the petitioner, respondent No.2 inspected the subject site and found no encroachments by respondent Nos.3 to 7, as alleged by the petitioner; as a matter of fact, respondent Nos.3 to 7 left over 5ft extra space while making construction; and, only on account of disputes between the petitioner and respondent Nos.3 to 6 dating back to 1964, such complaint has been made. He, however, assures that, if there are any violations in the construction made by respondent Nos.3 to 7, necessary action, in accordance with law, would be initiated.

Having considered the respective submissions, the petitioner was fair enough in filing a copy of the plaint in O.S.No.1094 of 2014, wherein respondent Nos. 3 to 6 herein

are parties. It may also be noted that respondent No.2 – Commissioner, GVMC has been impleaded as defendant.

The relief claimed in the suit reads as under.

- a. A mandatory injunction directing the defendants to remove the wall constructed by them illegally which is shown in red in the rough sketch;
- b. A consequential permanent injunction restraining defendants from making any further construction after removal of the illegally constructed wall shown in red in the sketch, directing the defendants 1, 2 and 3 to leave a clear way of 12 feet for ever from the 30 feet main road on the west leading to the plaintiff's house;
- c. Costs of the suit.

In view of the fact that the petitioner has already availed the civil remedy and, in view of the categorical assertion by Sri S.Laxminarayana Reddy, learned Standing Counsel for respondent No.2 - GVMC, that no encroachments are made by respondent Nos.3 to 7, the Writ Petition is closed leaving it open to the petitioner to pursue the civil remedy already initiated. However, the observations, made in this writ petition, shall not be construed as expressing any opinion with respect to the merits of the matter.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

CHALLA KODANDA RAM,J

Date: 17.04.2017
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