

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.45908 OF 2016

ORDER:

The case of the petitioner is that he is the owner of the land admeasuring 56.13 sq.yards having purchased the same vide registered sale deed dated 16.08.1999 and constructed a house bearing No.4-8-167(New No.4-8-277) by obtaining permission from the respondent-Municipality. The petitioner also inherited a house constructed in 120 sq.yards from his ancestors. Petitioner has been in continuous possession of the above said two plots clubbed together and has been paying property tax to the 4th respondent Municipality. While so, the 3rd respondent without any prior notice, is trying to vacate the petitioner from the above said lands. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 4th respondent stating that petitioner has made illegal and unauthorized constructions in 56 sq.yards, without obtaining permission from the respondent and the permission alleged to have been obtained by the petitioner has already been lapsed. It is also stated that the petitioner is trying encroach the adjacent land by claiming to be his ancestral property, though it is a government property and sought for dismissal of the writ petition.

Learned counsel for the petitioner submits that without following due process of law, petitioner cannot be evicted.

On the other hand, learned Assistant Government Pleader for Revenue submits that though the documents filed by the

petitioner pertains to 56 sq.yards, the petitioner is claiming 120 sq.yards and no documents are filed in support of his claim. He further submits that under the guise of 56 sq.yards, petitioner is trying to occupy the adjacent Government land.

Learned Standing counsel for the 4th respondent submits that the construction permission was obtained by the petitioner in respect of 56 sq.yards, but the same is lapsed. Under the guise of said permission, petitioner is trying to make constructions in the adjacent land, which is Government land. As such, the petitioner is prevented from encroaching the Government land.

It is to be seen that nothing is produced by the petitioner to show that he is in possession of 120 sq.yards and the so called permission obtained by the petitioner also pertains to 56 sq.yards. It is not known on what basis, petitioner is claiming 120 sq.yards. Counter affidavit also disputes the assertion of the petitioner that he is in possession of 120 sq.yards.

In view of the above facts and circumstances, this Court cannot go into the disputed questions of fact by exercising power under Article 226 of Constitution of India to grant relief.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

28.02.2017
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