

HON'BLE SRI JUSTICE SURESH KUMAR KAIT
And
HON'BLE SRI JUSTICE N. BALAYOGI

L.P.A.No.8 of 2017

JUDGMENT : (Oral)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present appeal, the appellant has challenged order, dated 09.08.2017, passed in C.C.No.939 of 2015 in W.P.No.18284 of 2017, wherein the learned Single Judge recorded that respondent No.5 in C.C. No.939 of 2015 i.e., appellant herein encroached the lands of respondent Nos.1 and 2-petitioners and laid the road.

2. Counsel appearing on behalf of the appellant submits that vide order, dated 21.01.2013, in W.P.No.14998 of 2005, in para 7, the learned Single Judge passed order as under:

“In the result, plots 23 and 24 in survey Nos.59-2A and 59-2C in ward No.6 of Anantapur Municipal Corporation with the measurements East to West on North of 88 feet, East to West on South of 103 feet, North to South on East of 66 feet and North to South on West of 84 feet as disclosed by the survey dated 25-02-2010 and as shown in the layout plan of L.P.No.193/82, consequently prepared in file No.2924/82/D5 of the 3rd respondent, shall remain uninterfered with by the 3rd respondent so as to enable the petitioners to possess and enjoy the same with absolute rights. The writ petition is disposed of accordingly with the above direction. No costs.”

3. Learned counsel for the appellant submits that the order, dated 09.08.2017, passed in W.P.No.18284 of 2017, is contrary to order, dated 21.01.2013 passed in W.P.No.14998 of 2005.

4. Counsel appearing on behalf of the respondents does not dispute the submissions made by counsel for the appellant and submits that vide order, dated 23.08.2017, passed in W.P.No.18284 of 2017, the learned Single Judge clarified the order dated 09.08.2017 and accordingly modified that order and directed the official respondents to remove the road laid by them in the lands of respondent Nos.1 and 2 herein and mark the boundaries and hand over possession of the same to respondent Nos.1 and 2 on or before 04.09.2017. It is further directed that if there is any obstruction or objection by any persons, the official respondents are at liberty to seek police protection to implement the order.

5. In view of the order, dated 23.08.2017, nothing remains against the appellant as per the order, dated 09.08.2017 in W.P.No.18284 of 2017.

6. Counsel for respondent Nos.1 and 2 also agreed to that extent and submits that no order is remained against the appellant herein.

7. In view of the above, the appeal is disposed of.

8. Pending miscellaneous applications, if any, shall stand closed.

No costs.

SURESH KUMAR KAIT, J

N. BALAYOGI, J

18th September 2017
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