

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.18884 OF 2011

ORDER:

This writ petition is filed seeking writ of mandamus directing the respondents 1 to 5 to stop illegal constructions being undertaken by the 6th respondent in the grave yard adjacent to Jama Masjid in Sy.NO.135 of Thorrur Village, Warangal District, which is against the sanctioned plan and consequently to direct the 6th respondent not to make any illegal constructions deviating the sanctioned plan.

2. It is the case of the petitioners that they are residents of Thorrur Village and eking out their livelihood by doing petty business in their own shops, which are less than 8 to 15 feet having independent Gram Panchayat numbers and individual electricity connections, situated at Main Road, Thorrur Village, Warangal District. That the shops situated in part of Sy.No.135 of Thorrur Village and that they are paying taxes for the shops to the Gram Panchayat, Thorrur. It is stated that the shops are in existence since decades. That the road in front of the petitioners' shops is leading from Khammam to Warangal Main Road and that due to road widening, they have lost most part of their lands and they are confined to their small extents left after main roads are laid. That behind the shops of the petitioners, there exists Jama Masjid and some open land left as burial ground and that there are number of tombs found in the vacant land behind the shops and that the said land is being used as burial ground from time immemorial. It is stated that when some unsocial elements tried

to evict the petitioners, they approached the revenue authorities and with the help of police and revenue authorities, they could stop such activities and in fact some of their shops are burnt. While the matter stood thus, the 6th respondent represented by its President and other executive members recently leveled the land by destroying tombs and started some construction activity. When the same is questioned by the petitioners, it was informed to them that they got permission from the Gram Panchayat for construction of shopping complex. The petitioners approached the respondents 4 and 5 and complained about the said illegal encroachment, but they have not responded. The 6th respondent had not furnished any sanctioned plan and they are making constructions without any set backs. When the 6th respondent interfered with the possession of petitioners 1 and 18 herein, they got filed suit for injunction in OS No.270 of 2008 and 118 of 2008 before the Junior Civil Judge, Thorrur, which was decreed holding that the petitioners are owners of respective shops and the Jama Masjid represented by their President and others have no right or manner to interfere with their peaceful possession. It is stated that if the 6th respondent is permitted to go ahead with the construction, without leaving set backs, the petitioners would be put to irreparable loss and hardship. Aggrieved by the action of the respondents, the present writ petition is filed.

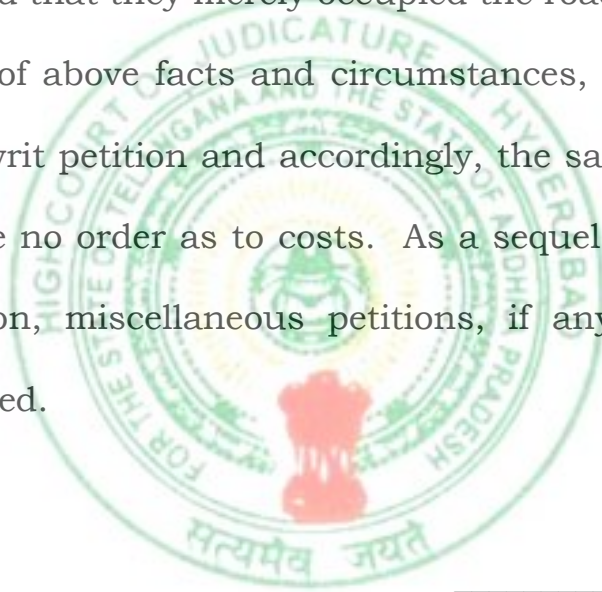
3. None appeared on behalf of the petitioners. Heard Sri P.Raghavender Reddy, learned Standing Counsel for the 4th respondent.

4. Learned Standing Counsel for the 4th respondent, basing on the counter affidavit submits that the petitioners have erected wooden bunks on the road margin and doing their business and that they have no right to continue on the road margin and that the gram panchayat is collecting only land rent but have stopped collecting land rent from the year 2011-12 onwards. But however, since the petitioners are doing business, the Gram Panchayat is collecting license fee only, since the petitioners are unauthorized persons doing their business on the road margin and the respondent No.6 who is the owner of the land behind the wooden bunks, started construction of shops after obtaining permission from the Gram Panchayat; that the construction is also completed and that all the shops were occupied by the respective traders from the 6th respondent. It is stated that as per letter No.B/293/2011, dated 16.06.2012 issued by the Tahsildar, Thorrur, the land on which the 6th respondent constructed the shopping complex belongs to Mazid/burial ground (Kabrasthan) and that as per the report of the Tahsildar, Thorrur, it is a patta land, as such, petitioners have no right to claim the subject land. It is stated that in front of the shopping complex, which is made by the 6th respondent, there is a 55 feet wide road and the gram panchayat granted permission by leaving 10 feet more set back to avoid further legal complications and that even as on today, in front of the shops of the 6th respondent, there exists 65 feet wide road.

5. The only grievance of the petitioners is that the 6th respondent is making construction in the graveyard in Sy.No.135

of Thorrur Village. The 4th respondent specifically stated in the counter that the 6th respondent obtained permission for construction of shopping complex and Tahsildar also addressed letter stating that the subject land is patta land. it is also stated that the 6th respondent made construction as per the permission granted by the Gram Panchayat by leaving set backs. No reply is filed by the petitioners disputing the said averments in the counter affidavit of 4th respondent. In the writ affidavit, no particulars are mentioned about the basis for ownership of petitioners and that they merely occupied the road margin.

In view of above facts and circumstances, I do not see any merit in the writ petition and accordingly, the same is dismissed. There shall be no order as to costs. As a sequel to the dismissal of this petition, miscellaneous petitions, if any, pending shall stand dismissed.



A.RAJASHEKER REDDY,J

15-06-2017
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