

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P. No.8862 OF 2004

ORDER :

Heard counsel for the petitioner, the Government Pleader for Revenue appearing for respondents 1 to 3 and the Government Pleader for Endowments appearing for 4th respondent.

2. Petitioner is a registered society under the Societies Registration Act, 1860. Petitioner contends that the land of an extent of Acres 3.42 cents in survey No.225/2 of Gangavaram Village, Pamarru Mandal, East Godawari District is government poramboke land. Petitioner admits that it occupied an extent of Acre 1.09 cents out of the said land 20 years back and constructed Sri Potuluri Veerabrahmendra Swamy Temple, developed the remaining land for cultivation and raised paddy and coconut trees, and that the income accrued from the land through cultivation has been used for performing 'Nitya Deeparadhana' and 'Kalyanaustavams' in temple.

3. According to the petitioner, the said land was initially used as a burial ground and called 'Viswa Brahmana Rudhra Bhoomi', and subsequently it became a prime place in the

village, since it is abutting to the main road, and the burial ground was shifted to other place.

4. Petitioner alleges that the local MLA got pressure on the respondents to evict the petitioner-Society from the land and the 1st respondent thereupon issued notice under Section 7 of the A.P. Land Encroachment Act, 1905 in August, 2002.

5. Petitioner contends that a representation was made on 08.03.2004 by certain members of Grampanchayath and several villages for grant of subject land in favour of Temple for its development.

6. Copy of the said representation was not filed with the Writ Petition, but it is contended in the Writ Petition that the 3rd respondent has not considered the said representation and there was a threat to dispossess the petitioner from the subject land.

7. Counsel for the petitioner reiterated that the petitioner cannot be evicted when the representation dt.08.03.2004 regarding allotment of the land to the Temple is pending consideration.

8. The Government Pleader for Revenue appearing for respondents 1 to 3 however contends that the petitioner is an

encroacher, that it occupied the subject land without any authority, and that the said land is intended as a burial ground for Viswa Brahmans. It is also stated that the petitioner had not even given explanation to the notice under Section 7 of the Act and the petitioner cannot insist that a representation given by some third parties to retain the land for the use of temple be considered.

9. I find considerable force in the contention of the Government Pleader for Revenue.

10. Since the petitioner has challenged the action of the 1st respondent in issuing notice under Section 7 of the Act and since no legal infirmity in the issuance of said notice is pointed by the counsel for petitioner, the Writ Petition is disposed of directing the petitioner to submit an explanation within three (03) weeks from the date of receipt of a copy of this order to the said show cause notice, and the 1st respondent is directed to consider the same and pass orders in accordance with law. There shall be no order as to costs.

11. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

09th February, 2017

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