

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.2780 OF 2007

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the proceedings No.41/Prot/MBNR/04-Z-III dated 01.07.2006 of the respondent as arbitrary, illegal, violative of Art.14, 21 and 300-A of the Constitution of India and consequently set aside the same.”

2. Case of the petitioner is that he is the owner and possessor of land to an extent of Ac.1-16 gts in Sy.No.124 of Malkapur Village, Koilkonda Mandal, Mahabubnagar District. He purchased the same from the original owners – late Sayyed Hussain and Chanda Hussain. Before purchase of the said property, the petitioner has verified the title of his vendors more particularly, Khasra Pahani. The entries in the revenue records right from 1954-1955 disclose that the said land is recorded as a patta land. After purchase, the petitioner developed the said land. Occupancy Right Certificate was also issued for the said land. Alleging that the said land belongs to Andhra Pradesh State Wakf Board/Ashurkhana, on 29.05.2004, the respondent issued show cause notice calling upon the petitioner to show cause as to why an order of removal cannot be issued. The petitioner submitted his explanation through notice issued by his counsel by annexing all necessary documents. In spite of receiving the reply of the petitioner, the respondent again issued notice on 09.03.2005

asking him to produce documentary proof. Again, the petitioner got issued notice through his counsel on 24.03.2005 referring to the earlier notice and submitted documentary proof to show that the said land is a patta land, but the respondent, without taking note of the replies given by the petitioner and the revenue records, issued proceedings No.41/Prot/MBNR/04-Z-III, dated 01.07.2006. In the said proceedings, it is alleged that the petitioner is an illegal encroacher and he should vacate and deliver vacant possession of Wakf land to the Inspector Auditor Wakf, Mahaboobnagar District. The said proceedings are issued without conducting any enquiry. Hence, the petitioner filed the present writ petition.

3. When the matter is taken up for hearing, learned counsel for the petitioner requested the Court to direct the respondent to give an opportunity of hearing to the petitioner and consider the documents filed by the petitioner prior to deciding the issue.

4. Considering the facts and circumstances of the case, the petitioner is hereby directed to file a fresh application along with all relevant documents before the respondent and on such application being filed, the respondent shall consider the same and pass appropriate orders in accordance with law, as expeditiously as possible, preferably, within a period of twelve (12) weeks from the date of receipt of the said application, after giving an opportunity of hearing to the petitioner. Till disposal of the said application, the respondent is directed not to take any coercive steps against the petitioner.

5. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

6. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

Date : 01.08.2017
AMD



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