

THE HONB'E SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos.2554 & 7934 OF 2017

COMMON ORDER:

As both the writ petitions are filed seeking identical relief, they are being disposed of by this common order.

The case of the petitioners is that they are the owners of small extents of house plots in Sy.No.173 of Madanapalle within the Madanapalle Municipal Limits. Adjacent to the petitioners' land in Sy.No.173, there is a canal in Sy.No.1007 (popularly known as Boreddy Kaluva). On the canal bed, a large number of encroachments have been made by various persons and they have put up tin sheds and carrying on various business. The encroachers have no manner of right over the canal bed land and the canal is on the near Bangalore bus stand, Madanapalle Town. On account of the illegal activities of the encroachers and unauthorized occupants, at times, they are preventing the flow of drainage water in the canal resulting in flooding of the petitioners house plots where they had houses and living. On earlier occasion, the petitioners had approached this Court by filing writ petitions seeking a direction to the respondent authorities to approve the lay out plan with respect to their lands and also further to assess the petitioners for property tax and this Court had directed the respondents to take appropriate steps. Though the orders have been made in July and August, 2016, no action has been taken by the respondents so far. Further illegal encroachments are being made on canal bed by unknown persons creating traffic jams causing much inconvenience to the petitioners and general public at large. Bringing all these aspects to the notice of the respondent authorities, petitioners submitted various representations including the latest one being on 4.1.2017. In spite of

the same, the respondents authorities are not taking any action. Hence, the writ petitions.

On behalf of the 2nd respondent, the Commissioner filed a counter-affidavit. In the counter affidavit, the assertions of the petitioners that they are the owners of the lands in Sy.No.173 and they are in possession is denied. It is further stated that the lands in Sy.No.173 measuring Ac.0.97 cents is classified as Gorrela Poramboke and the same is Government land. The allegation that the land originally belongs to Syed Basheer Basha @ Shiraj is not correct. As a matter of fact, Syed Musa Makanandhar and 10 others filed O.S.No.17 of 1980 on the file of Senior Civil Judge, Madanapalle against the Madanapalle Municipality, Revenue Department and Wakf Board for declaration of their right and title of the properties in Sy.No.173. Likewise, other civil proceedings have been filed and certain matters are pending before the various courts. Petitioners having suppressed all these facts, filed the writ petitions.

It is also further stated that the Sy.No.1007 of Boreddy Kaluva belongs to Madanapalle Municipality and Madanapalle Municipality had constructed a shopping complex long back consisting of 24 shop rooms and let out on lease to various small and medium traders. The open land also was allotted to various small and medium traders. The adjacent land is being used by small traders/ hackers and they are running petty shops by doing business in flowers and they have been paying the encroachment fee to the Municipality. There is a proposal to develop the municipal land adjacent to the shopping complex and the Municipal Council had already resolved to be allotted to small and petty traders on reasonable rents. The entire exercise is likely to be completed within a period of six to nine months and immediately on construction of shopping complex the hackers and petty traders would be moved out.

Considering the respective submissions and on perusal of the record, it is clear that there is a title dispute with regard to the land in Sy.No.173, Madanapalle, Chittoor District. However, the respondents have admitted that there are encroachments in the land in Sy.No.1007 and at least a part of the lands in Sy.No.173, is occupied by encroachers. As the factum of the encroachers causing traffic jams having not been denied and considering the fact that the respondents themselves have set out a time frame of six to nine months to clear all the encroachments, the writ petition is disposed of with a direction to the respondent authorities to ensure the clearance of encroachers from the tank bed land within a period of six to nine months as stated by them in their counter.

Accordingly, the writ petition is disposed of directing the respondent authorities to ensure the clearance of encroachers from the tank bed land in question, within a period of six to nine months from the date of receipt of copy of the order, as stated by them in their counter. No order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition, shall stand closed.

CHALLA KODANDA RAM,J

Date:11.04.2017,

Note:

Issue CC forthwith.

B/o.

Gk.

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Gk.