

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.1501 OF 2017

ORDER:

Heard Sri Sai Ram Murthy, learned counsel for the petitioners, Sri Anche Pandu Ranga Rao, learned Standing Counsel for 4th respondent-Municipality and Sri J.Dileep Kunar, learned Assistant Government for Pleader for respondents 1, 3 and 5 and with their consent, the Writ Petition is disposed of at the admission stage.

2. This Writ Petition is filed by the petitioners challenging the action of the respondents, particularly the 4th respondent in proceeding with the construction in the premises bearing No.29-1-31, located beside Veterinary Hospital, Korlampeta, Rajamahendravaram, East Godavari District, in violation of the judgment and decree in A.S.No.236 of 2006, dated 06.06.2011, of the District Judge, East Godavari District.

3. Learned counsel for the petitioners would submit that pursuant to the direction of this Court in W.P.No.39270 of 2016, the 1st petitioner filed an appeal before the 3rd respondent-District Collector, Rajamahendravaram under Section 10 of the Land Encroachment Act and that while the said appeal is pending enquiry, the respondents particularly, the 4th respondent highhandedly started making constructions in the disputed site. Learned counsel for the petitioners produced certain photographs showing the constructions allegedly undertaken by the 4th respondent and thus, sought for a direction of this Court.

4. Learned counsel for the respondents would submit that since the appeal is already filed and pending before the 3rd respondent-District Collector, the petitioners ought to have approached the District Collector for suitable orders and the petitioners have no cause of action to file the present writ petition.

5. Admittedly, the appeal is pending before the District Collector-3rd respondent, Rajamahendravaram for consideration. In that view, this Court is not inclined to consider the matter on merits. However, considering the submissions of learned counsel for the petitioners that during the pendency of the appeal when the 4th respondent started making constructions, they again approached the 3rd respondent-District Collector and requested him to hear the appeal and pass appropriate orders but the appeal was not heard, the 3rd respondent is directed to dispose of the appeal filed by the petitioners within two (02) months from the date of receipt of a copy of this order and the 4th respondent is directed not to proceed with further constructions till the appeal is heard and disposed of by the 3rd respondent-District Collector on merits.

6. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE U.DURGA PRASAD RAO

JANUARY 11, 2017

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Note: Issue C.C by tomorrow

(b/o)
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Date:11.01.2017