

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.7090 OF 2015

ORDER:

The writ petition is filed questioning the proceedings dated 23.02.2015, issued by the 2nd respondent, rejecting the application dated 20.1.2015, made by the petitioners seeking permission for construction of a shop for whole sale business in the land situated in Sy.No.1282, Fort Warangal, Opposite Santhoshimatha Temple, Hunter Road, Warangal District, on the ground that the objections alleged to have been made by the 3rd respondent, were not made available to the petitioners.

It is the case of the petitioners that they are the owners of the property over an extent of Ac.2.07 guntas in Sy.No.1282, Fort Warangal, Opposite Santhoshimatha Temple, Hunter Road, Warangal District. It is also stated that the petitioners submitted an application on 20.01.2015 seeking permission for construction of a shop in the said land, but the 2nd respondent even without issuing any notice to the petitioners rejected the application of the petitioners on the ground that the 3rd respondent claiming the rights on the property in question. Hence, the present writ petition.

In the counter-affidavit filed by the 2nd respondent, it has been set out that the 3rd respondent claimed that the said property was purchased by her in the year 1982 and thereafter a rectification deed dated 19.03.2009, was also obtained. It is further asserted that the 3rd respondent was already given building permission with respect to the said land on 27.05.2011 vide building permit No.54.

Having considered the respective submissions, what has been stated in the counter-affidavit, is not reflected in the impugned order except making a reference to the objections said to have been filed by the 3rd respondent dated 15.12.2014. It is also not the case of the 2nd respondent that the petitioner was intimated about the objections filed

by the 3rd respondent and the material objections and along with other documents were made available to the petitioners. In the circumstances, the petitioners did not have the opportunity to make their point clear, if any. No doubt that the 2nd respondent is not competent to decide on the title of either of the parties. However, before coming to a *prima facie* conclusion that there is a dispute with respect to the title, there is a duty cast on the 2nd respondent, to examine the respective contentions and arrive at a *prima facie* conclusion. In the present case, though a conclusion has been arrived at, as the petitioners did not have the benefit of the material placed before the 2nd respondent by the 3rd respondent, the petitioners could not have submitted their clarifications, if any.

In those circumstances, without expressing any opinion, with respect to the respective contentions with regard to the title, the writ petition is disposed of directing the 2nd respondent to reexamine the total issue afresh by taking into consideration of the objections and documents filed by the petitioners and pass appropriate orders in accordance with the law, within a period of four weeks from the date of receipt of copy of this order. The 2nd respondent is also directed to furnish the objections and material placed by the 3rd respondent to the petitioners.

With the above directions, the writ petition is disposed of. No order as to costs.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dated:09.02.2017
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