

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.9956 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking to issue a writ of mandamus to declare the action of 2nd respondent in threatening to demolish the structures of Sree Veerabhadra Swamy Temple and Sree Bhasaveswara Swamy Temple and the abutting shop rooms bearing D.Nos.11/ 119, 11/ 120, 11/ 121, 11/ 123, 11/ 124, 11/ 125, 4/ 269 and 4/ 270 situated at Sharof Bazar, Yemmiganur Town, Kurnool District, without issuing notice and without following due process of law, as illegal and arbitrary and consequently, direct the 2nd respondent not to demolish the structures of the above said temples.

Learned counsel for the petitioner submitted that the petitioner is a Society, namely, Sree Veera Saiva Sangha, registered under the Societies Registration Act and that the society is maintaining the above said two temples. He further submitted that the 2nd respondent is trying to demolish the structures of the said temples for widening the existing road, without following due process of law.

Learned Standing Counsel for Municipal Administration, on instructions, submitted that no temple property is being taken and the temples' property is also not getting affected in the road widening. It is only the encroachments, which are being removed and therefore, the question of paying any compensation or petitioner's rights getting affected does not arise.

The petitioner did not choose to make the Endowments Department as the party respondent. Therefore, no finding can be given whether it is a private temple or a temple under the control of the Endowments Department. The main controversy in the writ petition is

that certain property is being affected in the road widening that is being taken up by the 2nd respondent. Interest of justice would be served if the respondents are directed to pay adequate compensation for the structures of the subject temples and not to demolish the structures without following due process of law.

Hence, the Writ Petition is disposed of directing the 2nd respondent is directed not to demolish the structures of Sree Veerabhadra Swamy Temple, Sree Bhasaveswara Swamy Temple and the abutting shop rooms, situated at Sharoff Bazar, Yemmiganur Town, Kurnool District, without following due process of law and in case, the 2nd respondent intends to acquire the land, to pay adequate compensation. It is also made clear that if the structures of the temples are to be affected in the road widening, the 2nd respondent shall negotiate with the temple authorities. In the event, the temple authorities did not find it profitable to accept the TDR Certificates, the adequate compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Resettlement and Rehabilitation Act, 2013, shall be paid.

With the above observations the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, pending if any, shall stand closed.

March 21, 2017
KTL

CHALLA KODANDA RAM, J

