

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.14604 of 2009

ORDER:

The petitioner challenges the action of the respondents, particularly the first respondent, in their endeavour to dispossess him from the site in an extent of Ac. 0.01 ½ cents in R.S.No. 63/8 of Malikipuram Village and Mandal, East Godavari District, as illegal, arbitrary and violative of principles of natural justice.

2. The petitioner's case is that his mother M. Janikamma was the absolute owner of the land in an extent of Ac. 0.08 ½ cents in R.S.No. 63/8 of Malikipuram Village, which she got under a registered gift deed dated 6.6.1973 executed by her sister Smt. M. Krishnaveni. Subsequently, the said property was partitioned among the petitioner, his brother and mother about 20 years back, and in the said partition, an extent of Ac. 0.1 ½ cents fell to the petitioner's share and he has been enjoying the same by raising a small shed and running iron scrap business and also vending vegetables in the said site. Electricity supply was provided to his shop in the name of his grand-father. The first respondent-Grampanchayat is collecting property tax from him. The further case of the petitioner is that the Secretary and the Sarpanch of the

first respondent started proclaiming that the said property belongs to second respondent-Temple and tried to dispossess him by influencing the Tahsildar and the Mandal Surveyor. Having come to know their efforts, the petitioner got issued legal notice dated 8.2.2009 to Tahsildar and Mandal Surveyor informing that the said property is his private property and requested them not to interfere with the same and not to affect mutation in respect of the said property in favour of anybody. In spite of his notice, the Secretary of the first respondent came along with the staff on 18.7.2009 and orally directed the petitioner to remove his iron scrap and also shed without any right or authority. They warned that failing to heed their words the petitioner would be dispossessed forcibly. The petitioner's grievance is that if the respondents have any semblance of right, they should have issued a notice to the petitioner at first calling for his objections, so that the petitioner could be able to submit his explanation. Without following the due process of law, the respondents, according to the petitioner, are behaving highhandedly. Hence, the Writ Petition.

3. Notice on R1 was served but no counter is filed. Government Pleader for first respondent Sri T.V.S. Prbhakar Rao appeared.

4. If it is the claim of the respondent authorities that the property in an extent of Ac. 0.08 ½ cents in R.S.No. 63/8 of Malikipuram Village and

Mandal, East Godavari District belongs to 2nd respondent, they shall issue a notice to the petitioner within four weeks from the date of receipt of a copy of this order calling for his objections if any, upon which, the petitioner shall submit his explanation within four weeks thereafter. The authorities shall consider his explanation and take appropriate proceedings as per law.

5. With these observations, this Writ Petition is disposed of. No costs. As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 31.10.2017
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