

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.19989 of 2017

ORDER:

This writ petition is filed by the petitioners, under Article 226 of the Constitution of India, seeking to declare the action of the 2nd respondent Municipal Corporation in proposing to form a drain through petitioners' land, admeasuring to an extent of Ac.0-10 cents out of total extent of Ac.0-63 cents, situated in Survey No.315/2 of Pidimgoyyi Village, within Rajamahendravaram Municipal Corporation, East Godavari District, as illegal and arbitrary and against Article 300A of the Constitution of India and principles of natural justice and contrary to the provisions of Hyderabad Municipal Corporation Act, 1955, and Act 30 of 2013 and consequently direct the 2nd respondent Municipal Corporation not to form drain through petitioners' land.

2. Heard learned counsel for both sides and perused the material available on record. With the consent of learned counsel for both sides, the writ petition is taken up for disposal at the stage of admission.

3. The case of the petitioners is that the petitioners are the absolute and joint owners of the land, admeasuring to an extent of Ac. 0.63 cents, situated in Survey No.315/2 of Pidimgoyyi Village, within Rajamahendravaram Municipal Corporation, East Godavari District, by virtue of registered Partition Deed *vide* Document No.1054/2016 and they have been in absolute possession and enjoyment of the same. In the month

of April, 2017, the employees of the 3rd respondent along with a contractor inspected the petitioners' land and attempted to place markings and informed the petitioners that the 2nd respondent Municipal Corporation proposed to form a drain through petitioners' land, without giving any notice and opportunity to the petitioners. On 01.05.2017, the petitioners have got issued a legal notice on the 2nd respondent, but so far no reply was given by the 2nd respondent.

4. When the matter is taken up for hearing, it is informed by the learned Standing Counsel for the 2nd respondent that the petitioners can approach the respondent authorities and submit a representation with regard to their grievance along with the documents showing their title over the subject property to establish that the subject land belongs to them and on submission of such representation along with documents, the respondent authorities will consider the same and pass appropriate orders, in accordance with law.

5. Recording the said submission, the Writ Petition is disposed of directing the petitioners to submit a fresh representation to the respondent authorities with regard to their grievance on or before 20.07.2017, along with the documents showing their title over the subject property to establish that the subject land belongs to them and on submission of such representation along with documents, the respondent authorities are directed to consider the same and pass appropriate orders, as expeditiously as possible, in accordance with law, and communicate the decision to the petitioners. There shall be no

order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

RAJA ELANGO, J

Date: 11th July, 2017

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