

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.44864 of 2016

ORDER:

This writ petition is filed by the petitioner, under Article 226 of the Constitution of India, seeking to declare the action of the respondents in interfering with the construction work of the petitioner and claiming right, interest and title in respect of petitioner's land admeasuring 32 square yards in Survey No.159/1 out of 80 square yards of Vadali Village, Mudinepalle Mandal, Krishna District, as illegal and arbitrary and consequently direct the respondents to follow due process of law before interfering with the peaceful possession and enjoyment of the petitioner over the land admeasuring 32 square yards in Survey No.159/1 out of 80 square yards of Vadali Village, Mudinepalle Mandal, Krishna District.

2. Heard and perused the material available on record.
3. The brief facts, that are necessary for disposal of the present writ petition, are as follows:

The petitioner purchased house site admeasuring 32 square yards in Survey No.159/1 out of 80 square yards through a registered sale deed bearing Document No.705/2015 from his vendor Bonthu Koteswaramma and the vendor of the petitioner purchased the same through registered sale deed bearing Document No.4150/1999 from her vendors Varanasi Adinarayana and others and from the date of purchase, the petitioner is in peaceful possession and enjoyment of the said property and that

the petitioner started construction in the said premises. It is further submitted that on 14.12.2016, the Executive Officer of the 5th respondent, along with local police, visited the site of the petitioner and demanded to stop the construction by stating that it is a temple land and on 15.12.2016 also, the Revenue officials visited the site and demanded to stop the construction, otherwise they will demolish the structure.

4. The case of the petitioner is that the property purchased by the petitioner is neither a Government land nor Endowment land, but it is a private land.

5. In the counter affidavit filed on behalf of the 5th respondent, it is stated that as per Section 25 Register of Act 17/1966, Section 43 Register of Act 30/1987 and Ryotwari Patta, the 5th respondent temple is absolute owner of the land in Survey No.151/1 including 80 square yards out of total extent of Ac. 5.04 cents in Vadali Village and Mandal, Krishna District and that the constructions proposed to be made by the petitioner are illegal and arbitrary and that in fact, the subject land absolutely belongs to the 5th respondent temple and except the temple, no other persons have any right to make any constructions and that if the petitioner disputes title of the temple, he has an alternative effective remedy.

6. Learned counsel for the petitioner submitted that neither the Revenue Department nor the Endowment Department issued any show cause notice before demanding to stop the construction work and no proceedings were initiated either under Land Encroachment Act or under A.P. Endowments Act and that no opportunity was given to the petitioner to hear the matter and

to submit any documents pertaining to his title in respect of the subject property.

7. After hearing the arguments of the learned counsel for both sides, this Court is of the view that the petitioner has to prove his title over the disputed land before the competent authority. If the petitioner fails to do so, the respondents are at liberty to take action against the petitioner, in accordance with law, by following the due process of law.

8. 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.



RAJA ELANGO,J

Date: 5th June, 2017

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