

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.22688 of 2017

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, more particularly the 3rd respondent in not considering the legal notice issued by petitioners not to interfere into the peaceful possession and enjoyment of the property in Survey No.4/1, to an extent of Ac. 0.22 cents and Survey No.6/1A, to an extent of Ac. 0-11 cents, which comes to a total extent of Ac. 0.33 cents, situated at Thimmapur village, Kakinada Rural Mandal, East Godavari District, without having any right or interest and without issuing proceedings under Land Acquisition Act, as illegal and arbitrary and violative of principles of natural justice and consequently to direct the respondents not to interfere into peaceful possession of the petitioners over property for an extent of Ac. 0.22 cents in Survey No.4/1 and Ac. 0.11 cents in Survey No.6/ 1A, which comes to a total extent of Ac. 0.33 cents, situated at Thimmapur village, Kakinada Rural Mandal, East Godavari District.

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. It is the case of the petitioners that the petitioners are the absolute owners and possessors of land to an extent of 1597 square yards in two items in Survey Nos.4/1and 6/1 of

Timmapuram Village, which was purchased under a registered Sale Deed bearing Document No.768/2001 and rectified Sale Deed bearing Document No.1138/2002, which was registered before the Sub-Registrar Office, Samalkot, for a valuable sale consideration from the vendors and from the date of purchase of the said schedule property. When the petitioners are trying to lay the gravel by spending huge money, as the property is vacant site, some of the third parties have interfered into the possession of the property and trying to dispossess the petitioners from the land in question and came to know that the 3rd respondent temple officials visited the place and stated that the land belongs to the 3rd respondent temple without having any right over the schedule property and if any claims are made by the 3rd respondent, the Government has to issue the proceedings under the Land Acquisition Act for taking possession of the property, but in the present case, no notice was issued nor any Land Acquisition Proceedings were issued by the 3rd respondent nor by the Land Acquisition Officer and that it is a private land and there was clear title over the schedule property and the same was confirmed by the Revenue Divisional Officer by granting permission for conversion of the agricultural land into non-agricultural land for an extent of Ac. 0.33 cents in Survey Nos.4/1 and 6/1.

4. Learned counsel for the petitioners submits that the 3rd respondent temple is making hectic efforts to dispossess the petitioners from the land in question even without following the due procedure of law and without issuing any notice nor any

land acquisition proceedings either by the 3rd respondent or by the Land Acquisition Officer.

5. Learned Standing Counsel for the 3rd respondent temple submits that the allegations made by the petitioners are false. If really the petitioners are to be evicted, the respondent authorities would follow the due process of law and appropriate steps would be taken in accordance with law.

6. In the light of the submissions made by the respective counsel and in view of the admitted facts of the case that the petitioners are in possession and enjoyment of the subject property, their possession shall not be interfered with by the respondent authorities without following due process of law.

7. Accordingly, the Writ Petition is disposed of directing the respondents not to interfere with the possession and enjoyment of the subject property of the petitioners, except following due process of law. There shall be no order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.

RAJA ELANGO, J

Date: 11th July, 2017

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