

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.13969 of 2013

ORDER:

Heard Sri G.Tuhin Kumar counsel for petitioner at length.

From the material filed along with the writ petition, the petitioner could not satisfy the Court that the petitioner still is in possession to claim either right or ownership or possession of an extent of Ac.0-45 cents out of Ac.4-06 cents in Sy.No.440 of Mallavolu Village, Machavaram Mandal, Guntur District.

On the other hand, the stand of the 4th respondent reads as follows:-

“In reply to this para-5 of the affidavit, it is submitted that it is a fact that an extent of Acs.2.50 belonging to the present petitioner situated in SNo.440 of Mallavolu village has been acquired with an intention to provide house sites to weaker sections of the village during the year 1987 and accordingly house site pattas have been sanctioned to 167 individuals subsequently and some of the assignees have not occupied the allotted house sites immediately and some of the villagers of Mallavolu village have constructed Narasimha Swamy Temple in an extent of Acs.0-45 cents in SNo.440 out of which an extent of Acs.0-21½ cents have been given as donation to the temple by the present petitioner in the name of his parents and the remaining extent of Ac.0-21 ½ cents in SNo.434/2 of Mallavolu village has been given as donation by another individual. It is further submitted that the present petitioner had disposed his remaining patta land in the shape of house sites to some of the villagers through agreements, duly mentioning survey numbers as 410 instead of SNo.440”.

From the above, it is clear that the extent acquired in Sy.No.440 is Ac.2-50 cents. Insofar 45 cents, which is related to the extent covered in the writ prayer, it is evident that a Temple is in existence and in the survey of the land in Sy.No.440, it is revealed that the petitioner has not retained any land or in possession of any portion in Sy.No.440.

This Court is not framing any issue or recording a finding on either of these versions.

The limited prayer of not to dispossess except in accordance with law to an extent of 45 cents in Sy.No.440 of Mallavolu Village, Machavaram Mandal, Guntur District, cannot and could not be considered conveniently under Article 226 of the Constitution of India.

The writ prayer fails and is accordingly dismissed.

However, the petitioner is given liberty to work out remedies in accordance with law by filing a suit.

Miscellaneous petitions, if any, pending, shall stand closed.
No order as to costs.

S. V. BHATT, J

Dt: 19-06-2017

Prv

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