

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.21018 of 2008

ORDER:

Petitioner asserts that he became the owner and possessor of houses bearing No.12-8-236/12 (part) and 12-8-236/9B, covering an area of 105 square yards and 216 square yards respectively, situated at Govindapuram, new Mettuguda, Secunderabad, having purchased the same through registered sale deeds, dated 24.05.2006 and 15.11.1991 respectively; that as he desires to re-construct a house over the land to an extent of 105 square yards, he submitted an application to respondent No.2-Greater Hyderabad Corporation and the same was rejected and thereafter, he submitted an application to respondent No.4 – Joint Collector, Hyderabad, for grant of 'No Objection Certificate' and *vide* endorsement, dated 08.05.2007, the said certificate was not issued to him on the ground that the said land belongs to the Government (G-Graveyard); that there is no graveyard in the nearby vicinity and the graveyard is faraway and there is no truth in the statement that the subject property was constructed in a graveyard and that there are neighbouring houses abutting to his house and he had also filed a map to that effect. In those circumstances, he prays for a Writ of Mandamus.

Respondent Nos.2 and 3 and respondent No.4 filed separate counter-affidavits.

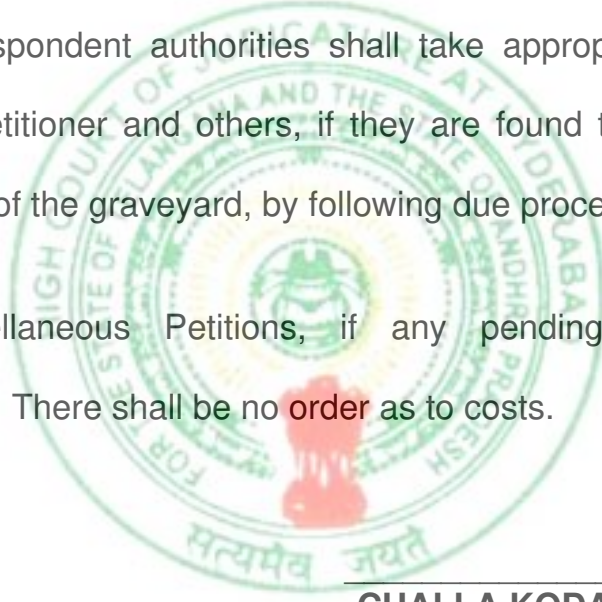
In his counter-affidavit, respondent No.4 stated that house bearing No.12-8-236/12, Mettuguda, Secunderabad, falls in T.S.No.21, Block-H, Ward No.125, Malkajgiri Village, Marredpally Tahsil; that the subject land is a vacant land and is surrounded by a compound wall; that permission to reconstruct a house has been refused by the Committee constituted under G.O.Ms.Nos.2111 and 93, dated 15.12.2005 and nil.01.2006, respectively and that the petitioner is trying to encroach the graveyard land and making constructions.

Considering the fact that the writ petition is of the year 2008 and in view of the fact that there is a dispute with respect to the existence of the subject property, this Court on 10.08.2018, appointed Ms.G. Bala Deepa to visit the subject site and note down the topography thereof and further, prepare a sketch/map with respect to the existence of the houses or otherwise. Accordingly, she submitted a report along with the sketch on 30.08.2018 stating that house bearing No.12-8-236/12 (part) is situated 50 meters away from the graveyard and that there are number of houses in and around the graveyard. In the said report, though she initially stated that the subject property is situated 50 meters from the graveyard, however, later stated that the same is located within the graveyard land. Though there is some ambiguity in the said report, the observation of the Commissioner to the effect that the subject property is situated within the graveyard land is probably on account of the fact that as per the revenue records, there is a graveyard in the subject

survey number and the sketch filed by her clearly indicates that the property is situated 50 meters away from the graveyard. Therefore, respondent Nos.2 and 3 could not have refused to grant permission to the petitioner to reconstruct the subject property, over which he is claiming long possession.

Hence, the writ petition is allowed with the direction to respondent Nos.2 and 3 to consider the application of the petitioner for building permission without insisting on 'No Objection Certificate' from respondent No.4. It is made clear that the respondent authorities shall take appropriate steps to evict the petitioner and others, if they are found to be in illegal occupation of the graveyard, by following due process of law.

Miscellaneous Petitions, if any pending shall stand disposed of. There shall be no order as to costs.



CHALLA KODANDA RAM, J

Dt: 06.09.2018
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