HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.4006 of 2018

ORDER:

Heard the learned counsel for petitioners and the learned Standing Counsel Sri A.Panduranga Rao representing the Rajamahendravaram Municipal Corporation for the respondents and perused the prayer in the writ petition with supporting affidavit and other material on record and the so-called site plan prepared by respondent No.2 submitted by the learned Standing Counsel. The prayer in the writ petition is as follows:

> "to issue a writ, order or direction more particularly one in nature of Writ of Mandamus, declaring the proposed action of the respondent in trying to take possession of the petitioners' land in an extent of Ac.0.80 cents and Ac.0.25 cents respectively in R.S.No.216 of Rajamahendravaram Municipal Corporation limits without following due process of law as illegal, contrary to law and violative of Article 300-A of the Constitution of India as well as principles of natural justice and for a consequential order directing the respondents not to dispossess the petitioners from their land in an extent of Ac.0.80 cents and Ac.0.25 cents respectively in R.S.No.216 of Rajamahendravaram Municipal Corporation limits without following due process of law and pass such other order or orders may deem fit and proper in the circumstances of the case."

2. It is the submission of learned counsel for the petitioners also with reference to the photos enclosed to the writ petition and the Sale Deed in favour of the husband of petitioner No.1 that they got the property of Ac.1.05 cents consisting of Ac.0.80 cents and Ac.0.25 cents in R.S.No.216 of

the Rajamahendravaram Municipal Corporation limits and the respondents are trying to take law into their hands to demolish illegally as per the so-called site plan drawn by respondent No.2, submitted by the learned Standing Counsel, the construction of petitioners is extended by encroachment of the public road and they are entitled without even notice to demolish and to direct for removal by virtue of the statutory provisions under Sections 405 & 406 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act').

3. In fact, the mere plan submitted by the learned Standing Counsel is not enough to say that the petitioners encroached into public road without demarcation of the property in the presence of the petitioners before invoking Sections 405 & 406 of the Act.

4. Having regard to the above, this Writ Petition is disposed of directing the respondents to fix a date for joint survey and measurement for demarcation of the property before taking any steps by invoking Sections 405 & 406 of the Act for action and communication of the result to the petitioners by left open any further remedies to work out by the petitioners.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

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Dr. B. SIVA SANKARA RAO, J

08.02.2018
MVA

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते