

HON' BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

WRIT PETITION No.5378 of 2018

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, seeking the following relief:

....to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the notice of the 3rd respondent/ Municipal Commissioner vide Fbc.No.287/ 2016/ G1 dt.02-08-2017 in proposing to acquire and demolish petitioners' temple and Kalyana Mandapam to an extent of 33.84 sq.yards bearing Municipal No.17-5-20, Guntur-Macherla Road, Revenue Ward No.6, Sattenapalli covered by Sy.No.188 of Sattenapalli Municipality, Guntur District without following procedure under Law is illegal, arbitrary, unconstitutional, offend Article 300A of the Constitution of India, against Principles of natural justice and contrary to the provisions of A.P. Municipalities Act, 1965 and Act 30 of 2013 and consequently direct the 3rd respondent Municipality not to acquire and demolish petitioner's Sri Kanayakaparameswari temple and Kalyana Mandapam and to pass such other"

2. Heard the learned counsel for the petitioner, the learned Government Pleaders for Municipal Administration, Revenue and Roads and Buildings appearing for the respective respondent Nos.1, 2 and 4 and Sri N.Venkateswarlu, learned Standing Counsel, who offers vakalat for respondent No.3 and perused the prayer in the writ petition with supporting affidavit and the other material on record.

3. It is stated in the affidavit filed in support of the petition that the respondents are violating Sections 42 and 174 of the A.P. Municipalities Act, 1965 (for short 'the Act') and if at all the property is to be acquired, they have to follow the due process as contemplated by the said two provisions and cannot take law into their hands.

4. Whereas, it is the submission of the learned Standing Counsel for respondent No.3 that the authorities are not going to acquire any land. However, if there is any encroachment by the writ petitioner, they are going to remove the same by following the due process of law and if at all any land is required to be acquired, they will follow Sections 42 and 174 of the Act.

5. By recording the above submissions, this Writ Petition is allowed and the respondents are directed not to interfere with the subject property, except through due process of law.

6. Consequently, miscellaneous petitions, if any shall stand closed. No order as to costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 20.02.2018

Note:

Issue C.C. tomorrow.

B/o.
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