

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.5566 of 2018

ORDER:

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

“To issue a Order Direction or Writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in constructing school building in the petitioners land allotted by the 1st respondent in Sy.No.217/2 to an extent of Ac.0-05 cts. out of total extent Ac.2-54 cts. of Puttur Village and Mandal Chittoor District as illegal arbitrary and in violation of principles of natural justice and against settled principle of law and consequently direct not to make any construction over the petitioners property in Sy.No.217/2 to an extent of Ac.0.05 cts. out of total extent Ac 2 54 cts of Puttur Village and Mandal Chittoor District”.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue, apart from perusing the material available on record.

3. According to the petitioner-Union, Government allotted land in Sy.No.217/2 to an extent of Ac.0.05 cents out of total extent of Ac.2.54 cents of Puttur village and mandal, Chittoor district for construction of building for Vidya Vignanika Praja Grandhalayam and also issued possession certificate dated 28.8.2008 and put the petitioner Union in possession of the said property.

4. In order to substantiate the said plea, a possession certificate dated 28.8.2008 said to have been issued by the Tahsildar vide proceedings L.Dis.No.A-427/2008 dated 28.8.2008 and the endorsement of the Deputy Tahsildar, Puttur Mandal dated 24.8.2014 have been filed along with the writ

petition as material papers. It is also the submission of the learned counsel that the petitioner herein filed suit bearing O.S.No.16 of 2015 on the file of Principal Junior Civil Judge, Puttur against certain third parties seeking permanent injunction and the said suit was decreed on 6.4.2016.

5. A counter affidavit deposed by the Tahsildar, Puttur Mandal, Chittoor district-1st respondent herein is filed stating that the land in Survey No.217/1 to an extent of Ac.2-54 cents of Puttur village is originally classified as "Gunta" as per Fair Adangal of Puttur village of Puttur mandal and is existing in the heart of Puttur Town. It is further stated in the counter that on verification of office records, it is noticed that the schedule land has not been alienated in favour of any organisation by the Revenue Department. It is also stated that the purported possession certificate said to have been issued in favour of Vidya Vignanika Praja Grandhalayam vide Ref.L.Dis.No.A-427/2008 dated 28.8.2008 is not genuine and is a created document with a view to grab the valuable Government land. It is also stated that the petitioner has created the said certificate by taking advantage of Ref.L.Dis.No.A-427/2008 dated 28.8.2008. It is also the case of the Respondents that the document pertaining Ref.L.Dis.No.A-427/2008 does pertain to alienation proposal only. A copy of the Distribution Register 2008 is also placed on record, in which at Serial No.427, it is mentioned as alienation proposal of the land in favour of Vidya Vignanika Praja Grandhalayam only. The genuineness of the possession certificate is seriously disputed in the writ petition by the Respondents. It is also submitted by the learned Government Pleader that number of constructions have come up in the subject land.

6. Since there is a serious dispute with regard to factual aspects, this Court is of the considered opinion that the same cannot be decided by this Court under Article 226 of the Constitution of India. However, it is open for

the petitioner to approach the competent Civil Court for redressal of its grievance in accordance with law.

7. With the above observation, the writ petition is accordingly disposed of. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 11.12.2018
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