

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No. 7153 OF 2013

ORDER :

This Writ Petition is filed questioning the action of the respondents in seeking to demolish the rooms constructed with asbestos roof for use of shop cum store room in Sy.No.599/2A, Near H.No.10-2-28/9, Ward No.10, Kotareddy Nagar, Kandukur Mandal, Prakasham District, without following due process of law.

2. The case of the petitioner is that the owner and possessor of the land admeasuring Ac.0.19 cents in Sy.No.599-2A, Kotareddy Nagar, Kandukur, executed a registered Gift Settlement deed in her favour on 09.01.2013. The petitioner submitted an application on 24.01.2013 to the respondents for permission for construction. As the respondents did not respond, the petitioner constructed 5 rooms with asbestos roof. The respondents, without conducting any enquiry, and without considering the application submitted by her, are trying to demolish the construction.

3. When the matter came up for admission on 8.3.2013, the learned Standing Counsel for the respondent municipality submitted that no demolition is being carried out.

4. A counter affidavit has been filed by the 1st respondent Kandukur Municipality stating, inter alia, that the petitioner's site falls in Sy.No.599/2A of Kandukur Municipality. Adjoining the petitioner's site, there is Government land. With a view to confirm that there was no encroachment of the Government land, a letter was addressed to the Tahsildar, Kandukur Mandal, on 28.01.2013 to offer remarks. The petitioner hurriedly made constructions of 5 shop rooms with AC roof sheets. The department orally advised the petitioner many times to wait for

report from Tahsildar and start construction only, after taking approval from their office. But the intention of the petitioner was to grab Government land and make constructions hurriedly; Tahsildar, Kandukur Municipality addressed a letter on 8.3.2013, informing that the petitioner has encroached to an extent of AC 0.01 cent (approximately) in Sy.No.599/1, which is classified road poramboke and constructed AC shed in the said site.

5. No reply affidavit has been filed disputing the contents of the counter affidavit.

6. Heard Mr. K.Anand Kumar, the learned Counsel for the petitioner and Mr.Nimmagadda Venkateshwara Rao, learned Standing Counsel for the Municipality.

7. As per the report of the Tahsildar, petitioner has encroached upon government land, which is not disputed by way of a reply affidavit.

8. Learned Standing Counsel for Municipalities submits that the petitioner has encroached Government land and that they would follow the procedure contemplated under law to evict the petitioner under Sections 192 and 194 of the Municipalities Act.

9. Hence, the Writ Petition is devoid of merits and the same is accordingly dismissed. However, the respondents are directed to follow the procedure as contemplated under law to demolish the construction and to protect the government land. No costs.

10. The Miscellaneous Petitions pending, if any, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

11th December, 2018

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