

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.17749 of 2011

ORDER:

Heard Mr.Karuna Sagar for petitioners, the Assistant Government Pleader for Revenue, G.Seshadri, learned Standing Counsel for 4th respondent and Sri G.Raja Babu holding for Smt.N.Shoba for 5th respondent.

The petitioners pray for Mandamus declaring endorsement dated 22.06.2011 of the 3rd respondent as illegal, arbitrary and unconstitutional.

On 27.06.2011, this Court directed the respondents as follows :-

“The petitioners claim to be the residents of Vinayaka Nagar, Kalasapadu Village and Mandal, Kadapa District. They have filed this writ petition complaining that the 5th respondent is undertaking construction of a temple on the public road. It appears that they have made a representation to the 3rd respondent-Tahsildar, Kalasapadu Mandal and on the said representation, the 3rd respondent has informed that the 5th respondent is constructing the temple on his patta land. The petitioners deny the same stating that the 3rd respondent has not verified the record in order to find out whether the land is private land or public road.

In the circumstances, the respondents 3 and 4 are directed to enquire into the matter after due notice to the petitioners and the 5th respondent and on verification of the fact whether the construction is on the public road or in the private land, they are directed to take appropriate action in accordance with law.”

The 5th respondent filed counter affidavit and also a petition to vacate the interim order granted on 27.06.2011.

In the counter affidavit filed by 5th respondent, a reference is made with regard to survey said to have been conducted on 14.07.2011.

The Assistant Government Pleader (Revenue) places on record written instructions dated 14.07.2011 and also communication dated 20.03.2018 received from 3rd respondent.

The letters relied on by the Assistant Government Pleader do not refer to any survey said to have been conducted pursuant to the directions of this Court, dated 27.06.2011.

On the other hand, respondents 1 to 4 inform the Court that the construction now undertaken by 5th respondent is without permission from the Gram Panchayat. Whether it is part of road or part of the property purchased by 5th respondent will have to be determined by survey, as directed by this Court.

The counsel for petitioners draws the attention of the court to photographs of subject location and also the construction undertaken by 5th respondent.

After perusing the material on record including the photographs relied on by petitioners, this Court is of the view that the interim direction is made as final order in the writ petition.

The petitioners are given liberty to apply to Tahsildar and Gram Panchayat-respondents 3 and 4 respectively, by enclosing

a copy of this order, within four weeks from today, for survey, demarcation and identification of road, road margin and the property of 5th respondent.

Respondents 3 and 4 are directed to take action as is required by law within three months thereafter.

The 5th respondent is directed not to further develop the property or change the physical features pending decision by respondents 3 and 4.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 21-03-2018
Prv



S. V. BHATT, J

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Prv