

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.20455 of 2017

ORDER:

Petitioner asserts that he is the owner of the land to an extent of Ac.0.90 cents in Survey No.458/1B of Penumantra Village and Mandal, West Godavari District, and it is adjacent to the tank and he raised a cattle shed thereon 40 years back. His grievance is that the respondents are interfering with his property without there being any proceeding and reason.

Respondent No.2 filed a counter-affidavit, paragraph 4 of which, reads as under:

“It is submitted that the averments so made in para 3 of the affidavit filed in support of the writ petition that the petitioner having agricultural lands so mentioned in the said paragraph and about inheritance are all concerned, the same is not known to this respondent and it is for the petitioner to prove the same. In reply to further averments, this respondent submits that the petitioner has encroached the panchayat land, which is situated in Sy.No.457/6 and raised a cattle shed. The land in Sy.No.457/6 is classified as Government Poramboke tank. The adangal clearly shows the same (The said adangal is herewith filed and the same may be read as part and parcel of this affidavit). The averment that the petitioner has raised shed for the purpose of cattle 40 years back is false and the petitioner herein is put to strict proof of the same. The petitioner herein has raised the shed in recent times. With regard to the lands on the northern side the petitioner lands, the petitioner's maternal aunt is having agricultural lands is concerned the same is not known to this respondent and it is for the petitioner to prove the same.”

The factum that the petitioner has erected some shed on the land in question is not in dispute. The question as to whether the shed has been erected on the land in question recently or 40 years back is not relevant, inasmuch as the respondents have admitted that the petitioner is in possession of the land in question. Even assuming that the said land belongs to the Government or it is a tank-bed land, the respondent authorities have to initiate appropriate proceedings either by filing a suit or by invoking the provisions of the Land Encroachment Act, 1905, to evict the petitioner therefrom.

In those circumstances, the Writ Petition is closed, leaving it open to the respondents to take appropriate steps for resuming the land in question from the petitioner by following due process of law. Till such time, possession and enjoyment of the petitioner over the land in question shall not be disturbed in any manner.

Miscellaneous Petitions, if any pending shall stand closed.
There shall be no order as to costs.

CHALLA KODANDA RAM, J

2nd MAY, 2018.

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