

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.13358 of 2009

O R D E R:

In this writ petition, petitioners seek a direction to the respondent authorities not to dispossess them from the land admeasuring 133.00 square yards in Survey No.1251 of Jyothinagar Area, Karimnagar, without following due process of law.

The petitioners claim that they became the owners of the above said land having purchased it under a registered sale deed, dated 09.03.2009, from Shaikha Sumayya W/o late Shaik Abdul Raheem and Shaik Ali Bin Bawazir. Their grievance is that at the instance of respondent No.4, respondent No.3-Municipal Corporation, Karimnagar, is taking steps to erect a statue of Swamy Vivekananda in their property without any sanction and without any authority of law.

Initially, respondent No.3 filed a counter-affidavit on 23.07.2009 asserting that the subject land, over which the petitioners are claiming ownership rights, belongs to the Corporation as per Town Planning No.11/70 as the original owner, by name Shaik Junaid, divided his land in Survey No.1251 into plots and while selling the same, the land in question is shown as 'part of road tri-junction island'; that as per the Town Planning Rules and Regulations, the Corporation alone is having right in respect of all roads situated within the approved layout, as

such, the petitioners cannot claim any right over the land in question; that the land in question was fenced by the Corporation in accordance with RDP No.10/88/WRO and a name board was installed stating that the land belongs to the Corporation and since more than 20 years, the land is in its possession and that in terms of the Standing Committee Resolution, dated 03.01.2007, erection of statue of Swamy Vivekananda is being undertaken in the land in question.

On 12.07.2018, taking into consideration the assertion of the petitioners that the original owner never sold the land and there was no layout plan approved, this Court directed respondent No.3 to file additional counter-affidavit setting out the details of the layout as well as the title.

Accordingly, respondent No.3 filed additional counter-affidavit stating that the document, by which the petitioners are claiming right over the land, is a fictitious one. He further stated that more than 30 years back, the original owner Sri Shaik Junaid divided the land in Survey No.1251 into plots and sold the same and that there is no piece of land left unsold, except the area covered by roads, island at tri-junction and that the said Shaik Junaid died long back. He denied the assertion of the petitioners that they purchased the property under a registered sale deed by stating that the original owner, Shaik Junaid, under a mistaken impression that he has a right to sell the land left for open space, had executed a sale deed, dated 21.10.1993, in favour of one A.Bhaskar Reddy. He enclosed the

copy of the above said sale deed along with the additional counter-affidavit. He further stated that the person, who sold the land in question to the petitioners, does not have title over the same. He also stated that the petitioners with a *mala fide* intention got created the registered document to grab the island area of tri-junction at Jyothinagar covered by RDP No.1/88/WRO.

Sri V.Ravi Kiran Rao, learned counsel for the petitioners, submits that the legal heirs of Shaik Junaid sold the subject land to the petitioners as if they had right and title over the same and thus, they mislead and cheated the petitioners and that one Bhaskar Reddy had purchased the land in question from the original owner, Shaik Junaid, and the said Bhaskar Reddy in fact sold the same to one J.Prabhakar Rao, who had agreed to confer rights in the petitioners and that the land does not belong to the Municipal Corporation and thereby, erection of the statue in the land in question is contrary to G.O.Ms.No.55, dated 08.04.2003.

Learned Standing Counsel for the Corporation submits that as the land in question belongs to the Corporation, the petitioners have no right to object for erection of the statue of Swamy Vivekananda.

Learned counsel for respondent No.4 submits that a statue has already been erected.

In view of the above, it is clear that the petitioners themselves do not have any right in the land in question, as such,

their dispossession does not arise. Inasmuch as the erection of the statue being done by the Corporation in terms of the resolution passed by the Standing Committee, it cannot be found fault with the same. If the petitioners claim any right in the land in question, they are at liberty to approach the civil Court for ascertaining their rights in accordance with law.

The writ petition is accordingly dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed. There shall be no order as to costs.

Dt:23.08.2018

kdl

CHALLA KODANDA RAM, J

