

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.3063 of 2009

Order:

This Writ Petition is filed to declare the action of the respondents in seeking to construct Marriage Hall (Shadikhana) in the land in Survey No.621 of Kandukur village and Mandal, Prakasam district, as illegal and arbitrary.

The case of the petitioners is that they are the owners and possessors of Ac.3.12 cents, situated in Survey Nos.622 and 648 of Kandukur village and Mandal, Prakasam district; there is a Government land in Survey No.621 and DKT pattas were given in respect of part of the said property in favour of landless poor persons and the remaining land was being used as pathway (donka); Tirumala Tirupathi Devasthanam constructed a Kalyana Mandapam in a part of the land in Survey No.621 and after construction of Kalyana Mandapam, except a narrow road of 40 feet, there is no other land left over in Survey No.621; said pathway (donka) is being used by the petitioners and others to reach their respective lands; in view of elections, the respondents have decided to construct a marriage hall (Shadikhana) in the remaining land in Survey No.621 blocking the entire pathway which leads to the lands of the petitioners; if the said land is occupied and marriage hall is constructed, it will block the entry into the lands of the petitioners.

WPMP No.21546 of 2009 was filed seeking to implead the District Collector, Prakasam district and the Tahsildar, Kandukur Mandal, Prakasam district as party respondents 3 and 4 and the said WPMP was ordered by order of this Court dated 21.04.2011.

Counter affidavit has been filed by the first respondent – Municipality stating that the Government is the owner of the land in Survey No.621 as the same is Poramboke land; the Minorities Welfare Department of Andhra Pradesh has issued G.O.Rt.No.457, dated 18.08.2007, sanctioning an amount of Rs.40.00 Lakhs for construction of new Urdu Ghar-cum-Shadikhana; pursuant to the said GO, the District Collector has directed the Tahsildar to allot suitable land for construction of Shadikhana and, accordingly, survey has been conducted by the Tahsildar, Kandukur and demarcated an extent of Ac.0.62 cents in Survey No.621 for the purpose of construction of Shadikhana as the land exclusively belongs to the Government; after completion of survey, the Tahsildar has handed over the possession of the site to the R&B Department on 07.11.2008; the Executive Engineer has sent proposals for construction of Shadikhana and technical sanction has been granted by the Superintending Engineer and tender notification has also been issued for the said work; at that stage the petitioners filed the present writ petition and obtained *status quo* orders; the petitioners have no *locus standi* to encroach into the Government property; the Mandal Surveyor has clearly shown a pathway and the same is demarcated as Survey No.621/11, which is abutting to Survey No.623 and adjacent to Survey No.622, and the same can be used as pathway and that there is no obstruction whatsoever to the petitioner.

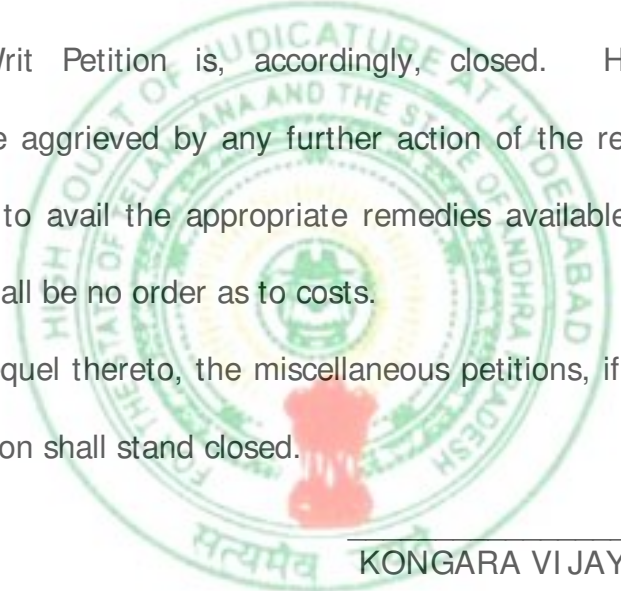
Learned counsel for the petitioners has passed on a copy of the proceedings dated 28.02.2009, issued by the Tahsildar, Kandukur Mandal, Prakasam district, under the Right to Information Act, 2005. According to the said proceedings, there is no municipal resolution with regard to construction of Shadikhana from the year 2004 to 2008.

Today, when the matter is taken up for hearing, learned Assistant Government Pleader for Revenue has passed on the written instructions submitted by the Tahsildar, Kandukur, dated 28.11.2018, according to which there is no proposal for allotment of land for construction of Shadikhana and that the present Writ Petition is filed basing on the apprehension of the petitioners.

In view of the said categorical statement made by the Tahsildar in his written instructions dated 28.11.2018 addressed to the learned Government Pleader for Revenue, no further orders are necessary in the present Writ Petition.

The Writ Petition is, accordingly, closed. However, if the petitioners are aggrieved by any further action of the respondents, they are at liberty to avail the appropriate remedies available to them under law. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

KONGARA VIJAYA LAKSHMI, J.

Date: 28.11.2018
Nsr

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