

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.35061 of 2013

ORDER:

This writ petition is filed to declare the action of the 2nd respondent in interfering with the petitioners' open land in Sy.No.52-1, Part-2, T S No.287 admeasuring an extent of Ac.0.73 cents, Hindupuram Municipality, Anantapuramu District, without issuing any notice or without following due process of law, as illegal and arbitrary.

The case of the petitioners is that they are the absolute owners of the subject property, having purchased the same for valid consideration vide registered document No.229 dated 24.01.1991 and that the husband of the petitioners vendor has purchased the same for valid consideration vide document No.638 dated 28.02.1949; on 26.11.2013, the officials of the 2nd respondent came to the plot of the petitioners stating that the said plot belongs to the Municipality and directed them to evict the plot, even though the petitioners are in possession of the same since 1991; on 27.12.2013 the petitioners made a representation to the 1st respondent narrating the facts and requested to direct the 2nd respondent not to interfere with their open plot.

When the writ petition came up for admission on 04.12.2013, this Court directed both parties to maintain *status quo* existing as on that date.

Counter-affidavit has been filed by the 2nd respondent- Hindupuram Municipality *inter-alia* stating that as per the revenue

diglot, the land in RS No.46, TS No.287 measuring 5166 sq. ft. belongs to Hindupur Municipality and it is vested with it by way of dry type latrine since 1920; pursuant to the orders of the Government of Andhra Pradesh, all dry type latrines were removed in all the Municipalities in the year 2005; when the Hindupur Municipality has started construction of compound wall to safe guard the municipality site, the petitioners made effort to stop the compound wall; the petitioners have encroached the Municipal latrine site in S.No.46 by way of wooden bunk, stocking of supply vessels etc; the petitioners have not mentioned the schedule of the property in the sale deed; the petitioners have not obtained the sub divisional sketch from the Tahsildar, Hindupur for the site in S.No.52-1, Part-2 to an extent of 176 sq. yards; that the site in S.No.52 and its sub-divisions are located adjacent to the southern boundary of the municipal latrine site in S.No.46 (TS No.287); therefore, the land of the petitioners in S.No.52-2 of Hindupur town and Municipal latrine site S.No.46 (TS No.287) are not one and the same.

When the matter came up for hearing, learned counsel for the petitioners submits that the petitioners will file a fresh representation to the 2nd respondent by enclosing the sale deeds and other relevant documents to show their title to the property, for which, the learned standing counsel for the 2nd respondent-Municipality submits that the authorities of the 2nd respondent will dispose of the said representation in accordance with law.

In view of the above, the writ petition is disposed of, giving liberty to the petitioners to file a fresh representation to the 2nd respondent within a period of two weeks from the date of receipt of

a copy of this order and on filing such representation by the petitioners, the 2nd respondent is directed to dispose of the same in accordance with law, within a period of eight (8) weeks thereafter. Till then, the *status-quo* order granted by this Court on 04.12.2013 shall continue. If the petitioners fail to file the representation within the time stipulated above, the *status-quo* order shall stand vacated.

The writ petition is, accordingly, disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

Date: 10.12.2018
BSS

KONGARA VIJAYA LAKSHMI, J

