

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 6360 OF 2010

ORDER :

This Writ Petition is filed to declare the action of the respondent Corporation in interfering with the possession and enjoyment of the petitioner over his property bearing Plot No. 12, Ward No. 15, Block No. 1, Rangampet, Warangal, without following due process of law, as illegal and arbitrary.

The petitioner claims to be the absolute owner and possessor of 306.67 square yards of open site surrounded by a compound wall, having purchased the same from Smt. Gattu Vijayalakshmi. It is stated that Sri Gangishetty Purushottam and others filed C.D.No. 426 of 1992 before the District Consumer Forum, Warangal against the Selection Grade Municipality and his vendor, claiming that there was a road and drain through the subject property and the said Dispute was disposed of with a direction to the Municipality to take steps for removal of the compound wall, if it is satisfied that the same was constructed on the public road. Prior to that, the petitioner's vendor filed O.S. No. 672 of 1991 against the Municipality challenging the notice which directed removal of the compound wall and the said suit was decreed with costs, by the learned Principal District Munsiff, Warangal. Sri Gangishetty Purushotham and others filed various other suits stating that the subject compound wall was obstructing their passage to the existing road and the flow of drain water and all those suits were dismissed by the II Additional Junior Civil Judge at Warangal. The Appeals preferred thereagainst also received the same fate. Aggrieved thereby, Second Appeals were filed before this

Court and the said Appeals were also dismissed *vide* judgment dated 13.11.2007.

While the things stood thus, from 08.03.2010 onwards, some people claim to have been deployed by the respondent Corporation started visiting the subject property and have been trying to make a way through the compound wall to allow flow of drain water through the property. When approached, the respondent authorities declined to interfere with the same. The petitioner claims that he had also submitted the representation, which was acknowledged by the respondent on 10.03.2010, but in vain.

Heard learned counsel for the petitioner as well as learned Standing Counsel for the respondent Corporation, Smt. Lakshmi Pingali.

Though this Writ Petition is of 2010, no counter-affidavit is filed denying any of the averments of the petitioner. However, learned Standing Counsel, on oral instructions, submits that the respondent officials have not been interfering, in any manner, with the petitioner's property. She further states that since the petitioner has been obstructing free flow of drain water by constructing a compound wall, he is required to remove the same. If it becomes inevitable for the respondent to pave way for free flow of drain water, they would follow due process and acquire the property required for the said purpose, she asserts.

Perused the material on record. The averments in the writ affidavit, which stood unrebutted, disclose that challenging the efforts made by the municipal authorities from 1992 to remove the compound wall around the subject property, the petitioner's predecessors-in-title were forced to approach the civil Court repeatedly to protect their right. In other words, the material

placed on record leaves no manner of doubt that for some reason or the other, the respondent authorities have been running after either the petitioner or his vendors. If the respondent requires the subject land for any public purpose, they can invoke the provisions of the Municipal Corporations Act, 1955, particularly Sections 146 and 147 and acquire that portion of the property. Under the guise of public interest, the Corporations cannot resort to either arm-twisty method or arbitrary interference with the citizen's right to property, in violation of Article 300-A of the Constitution of India.

In that view of the matter and also in view of the assurance given by the learned Standing Counsel to the effect that if the property is required, the respondent authorities would follow the procedure, the Writ Petition is allowed. Since repeated harassment is being meted out to the petitioner / his predecessor, costs of Rs.1,500/- (Rupees fifteen hundred only) is imposed, to be paid in fifteen days from the date of receipt of a copy of this order.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

11th October, 2018

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