

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.22622 of 2009

ORDER:

In this writ petition, petitioner prays for issuance of a direction to respondent No.3 – Commissioner, Greater Visakhapatnam Municipal Corporation, Visakhapatnam, not to convert the land in Survey No.1/5 of China Buchirajupalem Village, Visakhapatnam District, into a park.

The brief averments in the writ affidavit are that land (poramboke) in Survey No.1/5 belongs to the Government and is being used as a burial ground, as reflected in the revenue records. On coming to know that the respondent Corporation is proposing to convert the said land into a park, the petitioner along with others filed a representation before respondent No.2 – District Collector, Visakhapatnam, on 06.08.2009 with a request not to convert the said land into a park. As the Corporation is taking steps to convert the graveyard into a park, the petitioner filed the present writ petition.

On 22.10.2009, this Court while admitting the writ petition issued an interim direction to respondent No.3 not to convert the subject land into a park.

Though the writ petition is of the year 2009, a counter-affidavit is filed by respondent No.3 on 30.07.2018. While denying the allegations of the petitioner, respondent No.3 stated that the land to an extent of Acs.2.19 cents in Survey No.1/5 of Gopalapatnam Village belongs to the Government and out of the said land, Ac.1.28 cents of land has been occupied by the poor people in the locality and their occupation was regularized under G.O.Ms.No.296, dated 12.08.2015; that in an extent of land of 800 sq.yards, 33/11 KV Sub-Station was constructed by APEPDCL; that there is 80 feet road formed over the land to an extent of Ac.0.27 cents and the remaining extent of Ac.0.47 ½ cents is a vacant land, which is in the possession of the Corporation, and a compound wall is also constructed around the said land as it was proposed for construction of park vide resolution No.199/2008, dated 25.06.2009; that having come to know about the said resolution to convert the land to an extent of 0.47 ½ cents into a park, the petitioner filed the present writ petition; that there are already two burial grounds existing in the vicinity of the subject land within a half kilometer distance therefrom and the said burial grounds are being used by the Villagers of Buchirajupalem since long time; that the subject land is located at Susarla Colony and the local people are using the

burial ground situated at APSEB Colony which is ½ kilometer away from the subject land and also using the second burial ground situated in Gopalapatnam main road and that the land which is proposed to be converted into a park was never used as a burial ground, though the same was shown as burial ground in the revenue records. To buttress the same, a google map of the area is also filed along with the counter-affidavit.

Learned counsel for the petitioner reiterated the contents of the writ affidavit and prays for issuance of a mandamus.

Learned Standing Counsel appearing for Greater Visakhapatnam Municipal Corporation appearing for respondent No.3 submits that the subject land being owned by the Government, it is the prerogative of the Government or Governmental authorities to utilize the same for public purpose.

It may be noted that it is for the Government or its authorities to consider the need of creating a public burial ground. Further, it is specifically asserted in the counter-affidavit that there are two burial grounds existing in the vicinity of the subject land and more importantly, out of the entire land of Acs.2.19 cents, only 0.47 ½ cents of land was proposed to be

utilized for park, which cannot be termed as arbitrary particularly, keeping in view the fact that it is for the public purpose.

In those circumstances, the writ petition is dismissed.

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

31st JULY, 2018.

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CHALLA KODANDA RAM, J

