

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.10218 of 2017

ORDER:

Heard learned counsel for the petitioner and learned counsel for respondents 2 and 3.

2. The case of the petitioner is that himself and his brother are absolute owners and possessors of the land to an extent of 1210 square yards situated in Survey No.22 (old survey No.15), Venokjipalem Village, Visakhapatnam. They state that the said property is ancestral property. Their grandfather K.Veeranna owned an extent of Ac.22.44 cents in the said survey number. The said property was acquired by Veeranna and one Peelakanakam by virtue of an irrevocable permanent patta. While so, the said Veeranna and Peelakanakam jointly sold an extent of Ac.14.90 cents out of Ac.22.44 cents of land to Smt Gottumukkala Appalanarasamma under a registered sale deed and they are enjoying the remaining extent of Ac.7.54 cents jointly. The said property was subsequently partitioned and Veeranna got Ac.2.49 cents and he executed a Will on 22.03.1980 bequeathing the property to an extent of Ac.0.25 cents in favour of his second son by name Achi Babu. He also bequeathed another extent of Ac.0.12 cents in favour of his elder son by name Adinarayana by retaining the balance property with him. After death of Veeranna, the father of the petitioner became absolute owner of the property to an extent of Ac.0.25 cents. Petitioner's father executed a registered Will, dated 21.02.2014, bequeathing the said extent of Ac.0.25 cents to the petitioner and his brother. The petitioner obtained electricity service connection and he paid the vacant land tax also. When the 3rd respondent is trying to encroach upon the said property, the petitioner along with his brother

filed O.S.No.1046 of 2016 on the file of II Additional Senior Civil Judge, Visakhapatnam, for injunction. The Court below granted the order of *status quo* in I.A.No.846 of 2016 on 31.08.2016. After hearing both sides, the Court below granted interim injunction restraining respondent No.3 from making any construction in the subject property, by modifying the *status quo* order. While so, the petitioner came to know that the 3rd respondent got approval for building plan vide proceedings, dated 10.06.2016 from the 2nd respondent in respect of part of schedule property to an extent of 482 square yards out of 1210 square yards, by misleading the officials. When the 3rd respondent is trying to interfere with the possession of the property of the petitioner and his brother, the petitioner lodged a complaint to the 2nd respondent on 16.09.2016 to cancel the said building permission. In response to the same, the 2nd respondent issued letter on 17.10.2016 directing the petitioner to produce ownership documents pertaining to the site within seven days and accordingly, the petitioner submitted documents on 27.10.2016 along with Court orders. When no action was taken thereafter, the present Writ Petition was filed.

3. Learned counsel for the 3rd respondent submits that the land claimed by the petitioner is different from the land, for which appropriate building permission was obtained by the 3rd respondent. He further submits that the building was already constructed pursuant to the permission obtained from the 2nd respondent.

4. In view of the above averments in the petition and counter-affidavit, this Writ Petition is disposed of holding that the constructions made by the 3rd respondent in the subject property, shall be subject to further orders to be passed by the competent Civil Court in O.S.No.1046 of 2016 pending on the file of II Additional Senior Civil

Judge, Visakhapatnam. Depending on the result of the said suit, it is open to the parties to take appropriate action and bring the same to the notice of 2nd respondent and the 2nd respondent shall take further steps, if necessary, depending on the result of the said suit.

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

A.RAMALINGESWARA RAO, J

APRIL 16, 2018

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Date: 16.04.2018

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