

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.28466 of 2018

ORDER:

In this Writ Petition, petitioner challenges the action of the respondent authorities in stopping the functioning of the school in his property to an extent of 385.26 sq.yards bearing House No.5-3-58/4 situated in R.S.No.365/14 of Bhimavaram Town.

It is the case of the petitioner that he is in occupation of site in R.S.No.365/14 of Bhimavaram Town having fallen into his share vide partition deed, dated 26.04.2018 and that in the said site, his tenant is running a school under the name and style of 'Wonder Kids Play School' for the past five years. It is his further case that on 06.07.2018, a phone call was received by him from the Principal of the school informing that some staff, numbering about ten, of the third respondent Municipality have approached him stating that a complaint has been received from one S. Ram Babu seeking information with regard to the existence of the school on the subject site; that as the authorities on verification of the records, found that the school is situated in a Government poramboke site, they have issued necessary instructions to the officials concerned for demolition of the

structures existing on the subject site and thereby, the Principal has been directed to stop running of the school and that when the petitioner approached the authorities to verify whether any order has been passed to that effect or not, he was informed that no such order was passed. In the circumstances, he approached this Court for a Mandamus.

Learned counsel for the petitioner submits that as it is the assertion of the respondent authorities that the subject site belongs to the Government and as the school is running thereon by the tenant of the petitioner for the past five years, the respondent authorities would have to take action only by following due process of law.

Learned Standing Counsel for Bhimavaram Municipality appearing for respondent No.3 would assert that on verification, it was found that the subject site belongs to the Government and necessary action would be taken only by following due process.

Having regard to the respective submissions and considering the fact that the petitioner asserted his right in the subject land only through the partition deed executed recently, the Writ Petition is disposed of directing the respondent

authorities to take action against the petitioner in accordance with law, if they establish with supporting documents that the subject land belongs to the Government. Further, as it is admitted that there is a school running in the subject site, the respondent Municipality shall give notice to the school authorities and also adequate time to shift the same to another locality so as to ensure that no disturbance is caused to the students, who are studying in the school. It is made clear that this order shall not be construed as authorizing the respondent authorities to interfere with the school activities without issuance of notice and without giving adequate opportunity to the school authorities.

Miscellaneous Petitions, if any pending, shall stand closed.

There shall be no order as to costs.

CHALLA KODANDA RAM, J

10th AUGUST, 2018.

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