

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.14884 of 2016

ORDER:

Heard the learned counsel for the petitioner as well as the learned standing counsel for the 2nd respondent Corporation.

The prayer in the writ petition is as under:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ or order or direction more particularly in the nature of writ of mandamus declaring the proposed action of the 2nd respondent in trying to dispossess the petitioner society from the land to an extent of Ac.2.40 cents in RS.No.1095/3 situated in Hukumpeta Gram Panchayat, Rajahmundry for the purpose of laying the drainage pipelines through the schedule property without due process of law as illegal, arbitrary, high handed and violative of Articles 19, 21 and 300-A of Constitution of India apart from the violation of principles of natural justice and a consequential order directing the 2nd respondent to drop all further proceedings in this regard and to pass such other order or orders as this Hon'ble Court may deem fit, just and proper in the circumstances of the case.”

The facts of the case are that the petitioner society was registered with Registrar of Societies in the year 1956 with registration No.12/1956. It purchased an extent of Ac.2.40 cents in RS.No.1095/3 situated at Hukumpeta Gram Panchayat, Rajahmundry, under a registered sale deed dated 03.04.1924. At the time of purchasing the said property, since the petitioner society was not registered and in existence, the property was kept in the name of individuals, who are the governing body of the said society. However, after registration of the said society, the property was included in the assets of the society as early as in the year 1956. The revenue authorities also in recognition of the possession and enjoyment of the subject property by the petitioner society, has entered its name in the revenue records including the adangals. To substantiate the same, the petitioner society has filed copies of the pattadar pass book and adangals as material

papers. However, on 18.04.2016, the officials of the 2nd respondent Corporation came to the subject land and started taking its measurements stating that they have instructions to lay a drainage pipeline across the said land. Immediately, the petitioner society through its representatives requested the 2nd respondent not to lay the drainage pipeline through its land. As there was no response, the petitioner society submitted representation on 20.04.2016 bringing to the notice of the 2nd respondent about its title over the property in question. As there was no response, the present writ petition is filed.

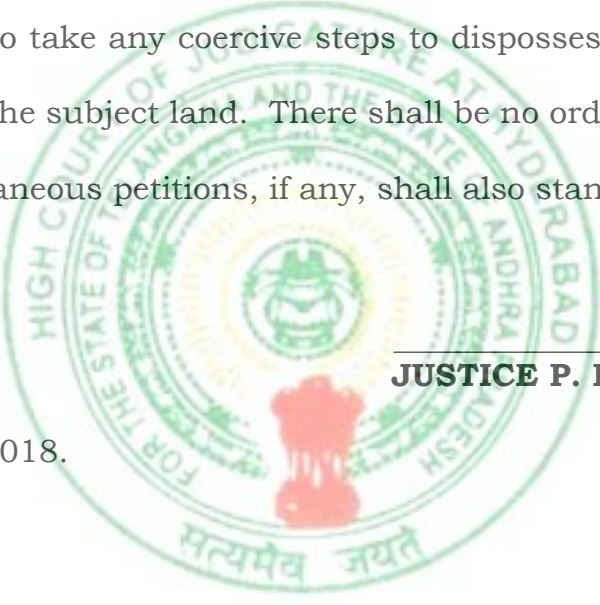
Per contra, though no counter affidavit is filed on behalf of the 2nd respondent Corporation, the learned standing counsel would contend that the copy of the registered sale deed, as stated in the writ affidavit, is not enclosed with the material papers. That apart, since representation dated 20.04.2016 is pending consideration with the 2nd respondent Corporation, it is open for the petitioner society to put their claim in the form of showing the title document to the 2nd respondent Corporation and seek appropriate orders.

A perusal of the material on record discloses that acknowledging the title, ownership and possession of the petitioner society over the subject land, the revenue authorities have issued pattadar pass book evidencing the title in its favour and also entered its name in the adangals which establish its possession. Be that as it may, though copy of the registered sale deed is not filed, it cannot be presumed that the petitioner society is not the owner of the subject property in the light of the revenue documents. However, as the representation dated 20.04.2016 is

pending consideration with the 2nd respondent Corporation, the petitioner society is at liberty to file all the relevant documents before it to establish their title and ownership over the subject property. Upon such submission, it is open to the 2nd respondent Corporation to consider the same and pass appropriate orders.

The writ petition is disposed of directing the 2nd respondent Corporation to dispose of the representation dated 20.04.2016, after giving an opportunity of being heard to the petitioner society, within eight weeks from the date of receipt of a copy of this order. Till final orders are passed, the 2nd respondent Corporation is directed not to take any coercive steps to dispossess the petitioner society from the subject land. There shall be no order as to costs.

Miscellaneous petitions, if any, shall also stand disposed of.



JUSTICE P. KESHAVA RAO

Date: 18.04.2018.
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