

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.33953 of 2018

ORDER:

Heard the learned counsel for the petitioner Sri Sarvabhouna Rao and Sri Laxmi Narayana Reddy for respondents 1 and 2 and the learned Government Pleader for respondents 3 and 4.

2. This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“To issue an appropriate writ order or other proceedings more particularly one in the writ of Mandamus declaring the action of the respondents in attempting to demolish part of the petitioner building constructed in an extent of 363 94 sq yards in Sy No 19/1 of Kummaripalem Valanda Bhoomulu of Bheemunipatnam of Visakhapatnam District which was constructed with a duly issued building permit order dt 18 07 2016 issued by the 1st respondent / municipal corporation and which building was constructed without any deviation from the approved plan particularly without issuing any notice and without seeking any explanation and without affording the petitioner an opportunity of being heard and without passing any order and tendering the same on the petitioner as illegal arbitrary unjust malafide and against the principles of natural justice and in flagrant violation of constitutional guarantees and to consequently direct the respondents not to resort to any such demolition activity pertaining to her above said building excepting under due process of law.”

3. According the learned counsel for the petitioner, only after obtaining valid building permission the petitioner herein raised the subject construction and on the basis of a complaint made by the neighbour, the Zonal Commissioner by way of the impugned proceedings came to the conclusion that the petitioner herein has encroached upon the public property and asked the Tahsildar to examine the issue. It is also the submission of the learned counsel that his client also approached the revenue authorities for certificate.

4. On the other hand, it is the submission of the learned Standing Counsel for the respondent Corporation that the impugned letter is only an internal correspondence and after enquiry by the revenue authorities, if it is found, that the land belongs to the Government, necessary action will be taken, strictly in accordance with law. It is also submitted by the learned Government Pleader that since the enquiry is pending with the revenue authorities, necessary report will be submitted to the Corporation after conducting survey.

5. Recording the said submission, writ petition is disposed of, leaving it open for the respondent authorities to conduct survey and thereafter proceed and take action strictly in accordance with law. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

Date:19.09.2018
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A.V.SESHA SAI, J





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Dated: 19.09.2018

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