

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.4290 of 2015

ORDER:

Heard the learned counsel for the petitioners and the learned Standing counsel appearing for respondent Nos.2 and 3.

The prayer sought in the writ petition is as under:

“... to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents more particularly respondents No.2 and 3 in trying to dispossess the petitioners by constructing compound wall over the petitioners land situated in plot No.3 & 4 situated in Sy.No.71/2D2 with an extent of 248 Sq. yards and 196 Sq. yards of Thunglam Village, Gajuwaka Mandal, Visakhapatnam District without any notice and without any procedure is highly illegal, arbitrary, unconstitutional and in violation of Article 300-A of the Constitution of India and consequently direct the respondents not to make any construction over the petitioners land situated in plot No.3 & 4 situated in Sy.No.71/2D2 with an extent of 248 Sq. yards and 196 Sq. yards of Thunglam Village Gajuwaka Mandal Visakhapatnam District.”

The case of the petitioners is that they are the absolute owners of plot Nos.3 and 4 admeasuring 248 and 196 square yards respectively in Sy.No.71/2D2 situated at Thunglam Village, Gajuwaka Mandal, Visakhapatnam District. They purchased the said lands under two registered sale deeds vide document bearing Nos.672 and 673 of 2006 dated 25.01.2006. While matter stood thus, on 19.02.2015, the staff of the 3rd respondent visited the subject property and measured the same by demolishing the concrete pillars. Questioning the said highhanded action of respondent Nos.2 and 3, the present writ petition is filed.

Learned Standing counsel appearing for respondent Nos.2 and 3 placed on record letter No.SSE/W/Land, dated 10.03.2015 addressed to the DEN/Lines II, East Coast Railway, Waltair, along with the material, which includes the survey sketch issued by the Mandal Surveyor, Gajuwaka. The said letter is made part of the

record. In the said letter, it is specifically stated that the objection raised by the petitioners that respondent Nos.2 and 3 are constructing a compound wall in their lands is without any basis. In fact, the construction of compound wall/boundary wall is being done along railway land in Sy.Nos.71/2D1/A and 71/2B after duly verification with the revenue surveyor, Gajuwaka. Since the railway land of Jaggayapalem yard is an encroachment prone area, the construction of boundary wall is being taken up to avoid the encroachments. It is further stated that the contention of the petitioners that the compound wall is being constructed in Sy.No.71/2D2 in which plot Nos.3 and 4 are situated, is absolutely wrong, but, physically it is situated in Sy.Nos.71/2B and 2D1/A, which belong to the railway department.

During the course of hearing, learned Standing counsel submitted that before commencement of the construction of the compound wall, a survey was conducted by the Mandal Surveyor on 16.02.2015 and after demarcation of the same, the compound wall is being constructed.

In view of the above and when the respondents have categorically stated that they are constructing the compound wall in their land in Sy.Nos.71/2B and 2D1/A without touching the subject property of the petitioners, this Court is of the opinion that no further orders are required in the writ petition.

Accordingly, the writ petition is closed. No costs.

Miscellaneous petitions, if any, shall also stand closed.

P. KESHAHA RAO, J

Date: 30.11.2018.
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