

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 36964 of 2017

Order:

Heard learned counsel for the petitioner and learned Standing Counsel for the second respondent.

The petitioner states that he is the absolute owner and possessor of the premises admeasuring 5106.5 sq. yards, situated at Ring Road, Pattabhipuram, Guntur, along with a building bearing Door No.3-4-235 situated therein. He says that he purchased the same from its lawful owners by virtue of different sale deeds of different dates in the year 2004 and 2006. He further states that he let out the said premises on monthly rental basis and presently Yamaha Showroom is existing. While so, the second respondent served a show cause notice dated 23.03.2017 on 08.09.2017 alleging that he encroached the road margin portion to an extent of 25.44 sq. yards and constructed the house, which is causing hindrance to the traffic and drain. He was directed to remove the same within three days. On receipt of the said show cause notice, he submitted an explanation on 09.09.2017. When the second respondent, even after receiving the explanation, was proposing to take action, the present Writ Petition was filed.

This Court, by order dated 03.11.2017, granted interim direction to the second respondent not to interfere with the possession and enjoyment of the property till 17.11.2017 and thereafter the interim order was not extended. However, the second respondent filed a counter affidavit along with petition to vacate the said order in I.A.No.1 of 2018.

In the counter it is stated that in view of the encroachments made on the road and in view of the frequent traffic jams, a survey was conducted and proposed to widen the road by constructing the drains. At

the time of conducting survey, it was noticed that the petitioner encroached on to the road portion and made constructions. After the said survey, a show cause notice was issued and, when the petitioner failed to remove the encroachments, he was issued another notice on 02.08.2017. In spite of the same, the petitioner has not removed the encroachments.

In reply to the show cause notice, the petitioner in his explanation dated 09.09.2017 asked for conducting survey in his presence. Now a survey appears to have already been conducted by the second respondent and a copy of the survey report was already filed along with the counter and served on the counsel for the petitioner.

In view of the same, if the petitioner has any objection to the said survey report, he shall file his objections within a period of fifteen (15) days from the date of receipt of a copy of this order specifically pointing out the objections and the second respondent is directed to consider the said objections and pass a final order with regard to the encroachments made by the petitioner. Till such time, the property of the petitioner bearing Door No.3-4-235, situated at Ring Road, Pattabhipuram, Guntur, shall not be interfered with.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 24.04.2018
Nsr