

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 40901 of 2018

ORDER:

1) The present Writ Petition came to be filed seeking issuance of writ of mandamus declaring the impugned proceedings dated 04.10.2018 issued by the 2nd respondent as illegal, arbitrary and consequently by setting aside the same direct the 2nd respondent not to demolish the structures being made in an extent of 274.22 sq. yards in Sy.No.799/2 in Kadiri Municipal Limits, Ananthapuram District.

2) The facts in issue are as under:-

The petitioner herein claims to be the owner and possessor to an extent of 274.22 sq. yards out of Ac.0.77 cents in Sy.No.799/2 in Kadiri Municipal Limits, Ananthapuram District through a registered sale deed dated 03.08.2017. It is stated that to construct a building in the said site, he made an application to the 2nd respondent/Municipality on 23.06.2018 but the said application was refused to be received by the authorities. He then sent the same through registered post and as there was no response from the authorities, he commenced construction on an impression that the building plan was approved. While things stood thus, on 11.11.2018 the officials of the respondent came to the site of the petitioner and tried to remove the illegal constructions alleged to

have been raised by the petitioner. When the petitioner resisted the same, the officials left the place, threatening him that they will come with police force to demolish the same. This action of the respondent is came to be challenged in the present writ petition.

3) Sri M.D. Salim, learned standing counsel for respondents/Municipality on instructions states that the petitioner has no permission to raise the construction and infact he has occupied the kalva poramboke land thereby obstructing the flow of channel and the land in Sy.No.799/1 is a Government land. According to him, any constructions made therein would be contrary to law and no permission was accorded as claimed by the petitioner.

4) However, the learned counsel for the petitioner disputes the same stating that the petitioner is having a valid permission to raise constructions over the said property and that he is so having title over the property.

5) Without going into the factual aspects, the present Writ Petition is disposed of directing the respondents to take action if there is any encroachment on to the Government land or on to the Kalva Poramboke or any construction made without proper approval, by following the procedure established under law instead of trying to take action in an arbitrary manner.

6) With the above observation, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel to it, miscellaneous petitions pending if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:27.11.2018
GM

