

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.42465 of 2018

ORDER:

The case of the petitioner is that she is the absolute owner of the premises bearing H.No.9-8-175, admeasuring 500 square yards, situated behind K.B.Museum, Inside Kaman Golconda, Hyderabad, having succeeded the same from her ancestors and has been in peaceful possession of the same and her grand father's name is also reflecting in the municipal records. It is stated that there is a temple of Lord Shiva adjacent to petitioner's premises and the committee members and care taker of the said temple have highhandedly demolished petitioner's wall and started using it as a common passage. Since it is a worship place, petitioner did not raise any objection. While so, the committee members have started demanding the petitioner to sell away her property to merge the same into the temple premises, but the petitioner refused to oblige their illegal demand, as she has no other dwelling to take shelter except the above said premises. When the said committee members tried to demolish petitioner's room she made a complaint before the Golconda P.S against the said committee members and the care taker of the said temple to provide protection. Since then they bore personal grudge against the petitioner. In order to protect petitioner's lawful possession in respect of the said land, petitioner has instituted a civil suit in OS.No.919/2017 on

the file of XXII Junior Civil Judge, Hyderabad seeking perpetual injunction and the same is pending. While so, having failed to succeed in their attempts the temple people have instigated the 2nd respondent, in turn the 2nd respondent on 18.11.2018 illegally trespassed into petitioner's premises by demolishing the fencing wall and demolished some portion of petitioner's premises without having any manner right, title or claim in respect of the said property. It is also stated that K.B.Museum which is situated behind the petitioner's premises, is in the Government building bearing H.No.9-8-174 and whereas the house number of petitioner is 9-8-175 as evident from the property tax history maintained by the Municipal Corporation, thus both the premises are different from each other and therefore, the 2nd respondent has no right or claim in petitioner's property. When the 2nd respondent officials tried to demolish petitioner's premises, the petitioner with the help of her son and locality people resisted them, but, the said officials left the premises by threatening the petitioner to demolish the entire premises. Aggrieved by the action of the respondents, present writ petition is filed.

Heard learned counsel for the petitioner.

The 2nd respondent filed counter denying all the allegations made by the petitioner. It is stated that as per G.O.Ms.No.779, dated 16.03.1965, the K.B.Museum is a

protected monument of 2nd respondent with the following boundary particulars.

North: Main road leading to Balahissar; South: Military Area;
East: (Public road) land; West: (Public road) Lane.

The allegation of the petitioner that her premises No.9-8-175 is situated behind K.B.Museum, inside Kaman Golconda, Hyderabad, is completely denied. It is further stated that the petitioner has not produced any proof for being in possession of this land which is part and parcel of K.B.Museum; and that the petitioner is claiming the subject premises by showing evidence of electricity bill from September 2017 and Property tax without any date. It is also stated that the claim of the petitioner that temple is located adjacent to the petitioner land is denied, as the temple is adjacent to K.B.Museum; and that the claim of the petitioner that she has raised fencing wall which a Civil Suit is pending bearing OS.No.919/2017 on the file of the XXII Junior Civil Judge, Hyderabad, is self contradictory. It is further stated that any construction that comes up within 100 Mts. of a protected monument has to take prior permission from Department, but, the petitioner never approached this department before making construction activities knowing that the land does not belong to her.

Heard learned counsel for the petitioner who submits that the respondents have to follow due procedure before taking any action against the petitioner's premises.

It is to be seen that except filing some electricity bills, no documents are filed showing that the petitioner is in possession of the subject premises. In the counter the title of the petitioner is disputed. This Court cannot go into the disputed questions of fact and decide the title of the petitioner in this writ petition. More so, it is stated by the respondents that there cannot be any construction within 100 Mtrs. of protected monument as per G.O.Ms.No.779, dated 16.03.1965. In view of the aforesaid facts and circumstances, this Court is not inclined to entertain the writ petition.

Accordingly, the writ petition is disposed of granting liberty to the petitioner to avail civil law remedy. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

15.12.2018
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