HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITON No.44399 of 2018

ORDER:

This writ petition is filed challenging the action of the officials of the 2nd respondent in threatening to dispossess the petitioner from his premises bearing H.No.9-8-173/1/A, admeasuring 219 square yards, situated at K.B.Museum, Inside Kaman, Bada Bazar, Golconda, Hyderabad, without issuing any notice and without following the procedure contemplated under the Law.

The case of the petitioner is that he is the absolute owner and possessor of the premises bearing H.No.9-8-173/1/A, admeasuring 219 square yards behind K.B.Museum, Inside Kaman, Bada Bazar, Golconda, Hyderabad, having purchased the same from its lawful owner Sri Mirza Azam Baig for valid sale consideration by virtue of a registered sale deed bearing Document No.2409/2016 dated 20.04.2016, registered in the office of the Sub-Registrar, Charminar, Since the purchase of the said premises the petitioner is in peaceful possession and enjoyment without any interruption and interference from anybody. While so, the petitioner submitted an application before the Municipal Corporation for mutation of his name in the municipal records duly enclosing the copy of the Sale Deed and the same is pending for consideration.

It is also stated that behind petitioner's premises there is one Museum called K.B.Museum whose municipal number is 9-8-171 and 9-8-174 and in between petitioner's premises and the said Museum there is small place left. While so, on 01.12.2018, the 2nd respondent came to the petitioner's premises and threatened the petitioner to vacate and handover his premises to them within a week otherwise they would dispossess him from his lawful possession. It is further stated that as per the Property tax history maintained by the Municipal Officials, it is clear that K.B.Museum is assigned with Door No.9-8-174 and it is also clearly mentioned that the said property is the Government building and whereas petitioner's property is assigned with D.No.9-8-173/1/A and both the properties are different from each other and that the 2nd respondent has no right or authority to cause interference with petitioner's possession and enjoyment over his property. Aggrieved by the action of the 2nd respondent in trying to dispossess the petitioner from the subject house, present writ petition is filed.

The 2nd respondent filed counter affidavit denying all the allegations made by the petitioner. It is stated that the 2nd respondent had not initiated any action against the petitioner claiming the house bearing No.9-8-173/1/A; that as per G.O.Ms.No.779, dated 16.03.1965, K.B.Museum is a

protected monument of this Department with the following boundaries.

North: Main Road leading to Bala Hissar; Sourth: Military Area; East: Lane; West: Land;

and as per the aforesaid G.O. of the boundary particulars, K.B.Museum is abutting the road on the western side. As per the departmental records the subject house claimed by the petitioner, does not exist. It is also stated that as per the departmental records it is clearly showing that the subject house claimed by the petitioner was constructed by encroaching the road. Further it is submitted that the department will initiate action of eviction against the encroachments made by the petitioner along with other encroachments by issuing proper notices to the individuals and after following procedure as per law. It is also stated that as per Section 19(1) of the Andhra Pradesh Ancient and Historical Monuments and Archaeological Site and Remains Act, 1960, no construction is allowed within protected area.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Archaeology and Museums.

In the counter it is stated that the respondents will follow procedure for evicting the encroachment of the petitioner along with other encroachments.

In view of the same, the writ petition is disposed of directing the respondents to follow due procedure before evicting the petitioner from the subject house. However, if petitioner tries to make any further constructions, it is open for the respondents to stop the same. No order as to costs.

As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

15.12.2018
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