

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.45947 OF 2018

O R D E R

The case of the petitioner is that the 2nd respondent – District Collector is proposing to alienate the subject land in an extent of Ac.0.17 cents in R.S.No.749-1 of Pedayadar village, Machilipatnam, to 3rd respondent – APSPDCL, for constructing 33/11 kv electric sub station. His case is that the subject land is Shikam land of Vadapalem Grampanchayath Dakshina Cheruvu (tank) and there is Shivalayam Temple in the said land, and that the proposed construction, which is adjacent to the temple, is dangerous to pilgrims. Petitioner earlier filed W.P.No.1869 of 2017, seeking direction to stop the construction of the said sub-station over the subject land. This court by order dated 13.07.2018 disposed of the writ petition and directed the 2nd respondent - District Collector, to consider the objections of the petitioner and others, and take decision. Petitioner again filed W.P.No.43603 of 2018 to declare the action of the respondents in constructing electrical sub station in the Shikam land of Vadapalem Grampanchayath Dakshina Cheru, by removing the Shivalayam temple, without considering his objections dated 23.08.2018 and 08.10.2018, as illegal and arbitrary. This court, noticing the order passed in the earlier round of litigation in W.P.No.43603 of 2018, dismissed of the writ petition by order dated 03.12.2018, leaving it open to the petitioner to work out his remedies if an adverse decision is made by the District Collector. Now by the impugned proceedings in file No.REC-ESCOALN(ALN)/126/2018-SA-(E1)-KCO, dated 15.10.2018, the 2nd respondent – District Collector, rejected the claim of the petitioner that the subject land is sikhham land, and held that as per the reports of the

Tahsildar and Revenue Divisional Officer dated 23.09.2018 and 12.10.2018 respectively, the subject land is AWD Gayalu i.e, Government waste land. Aggrieved by the said proceedings and seeking to stay the construction of the electric sub station, the present writ petition is filed.

Learned counsel for the petitioner reiterated his submission stating that there is temple in the shikam land and that the 2nd respondent – District Collector, without considering objections, rejected his request to stop the construction of electric sub station.

On the other hand, learned Assistant Government Pleader for Revenue, on instructions, submitted that the subject land, as per revenue records, is AWD gayalu, and hence the plea of the petitioner that the land is Skham land is without any basis. Learned Assistant Government Pleader and also the learned Standing Counsel for 3rd respondent - APSPDCL, Si N.Shiva Reddy, submitted that the proposed construction is not being made in the temple land and that they are not going to interfere or encroach upon the temple land and that the proposed construction will have no affect on the temple or the people visting the temple. Therefore, they sought to dismiss the writ petition.

From the material on record, it could be seen that though the petitioner vehemently submits that the subject land, where the electric sub station is proposed to be constructed is classified as Skham, he has not produced any material in support of his claim. On the other hand, as per the revenue records, the subject land is AWD gayalu (Government waste land). Therefore, the averment of the petitioner that the subject land is classified as Skham, is without any basis.

Moreover, the learned Assistant Government Pleader for Revenue and the learned Standing Counsel for respondents 2 and 3, on instructions, have categorically stated that the construction will have no affect on the temple and proposed construction is being made without touching the temple and its appurtenant land.

In view of the above facts and circumstances of the case and the submissions of the learned counsel, I do not find any reason to interdict the proposed construction of the electric sub station by the 3rd respondent in the subject land and the writ petition is devoid of any merit and the same is accordingly dismissed.

Interlocutory applications pending, if any, shall stand closed. No costs.

A. RAJASHEKER REDDY, J

DATE: 18—12—2018

AVS

