

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 23024 of 2019

ORDER:

As per the averments of the writ affidavit, petitioners had constructed a Daba and running a Nursery on the land in Survey No.362 situated at Nallikonda Village H/o. Naganool Village, Nagarkurnool Mandal and District, but, they are not claiming ownership rights thereon.

Though learned counsel for the petitioners disputes that the land in Survey No.362 belongs to respondent No.2 Temple, the material placed before this Court by the learned Standing Counsel for respondent No.2 i.e., register maintained under Section 43 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), shows that the subject land stands registered in the name of respondent No.2. Further, the pahani issued by the Revenue Department as far back as in 2013 indicates that respondent No.2 is the owner of the subject land. Therefore, the status of the petitioners is only encroachers and they do not have any right in the subject property. The petitioners do not dispute this aspect, but, they assert that though number of people occupied the subject land, action is being taken against them alone.

The only contention of the learned counsel for the petitioners is that since the possession of their clients is not in dispute, their eviction has to be undertaken by following due process, particularly, under the provisions of the Act.

Inasmuch as Section 83 of the Act provides the procedure for ejectment of an encroacher and considering the fact that the petitioners filed a representation on 04.10.2019 before respondent No.1-Assistant Commissioner of Edowments, Mahabubnagar, Nagarkurnool, Narayanpet, Jogulamba Gadwal and Wanaparthy, stating that they would pay Rs.10,000/- for occupation of the land admeasuring Acs.1.35 guntas, subject to the condition of their paying the amount as agreed in the representation dated 04.10.2019, their possession and enjoyment shall not be interfered with, until they are evicted by following the prescribed procedure under Section 83 of the Act. It is needless to mention that there is a duty cast on the authorities of respondent No.2 Temple to take necessary steps for eviction of the petitioners.

Subject to the above, the writ petition is disposed of.

Miscellaneous petitions, if any, pending in this Writ Petition shall also stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:23.10.2019

Note: Issue cc in three days.
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