

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos. 26271 and 31679 of 2018

COMMON ORDER:

Since the issue involved in these Writ Petitions is identical, they are clubbed together and are being disposed by this common order.

For the sake of convenience, the facts set out in W.P.No.26271 of 2018 are, briefly, stated as under:

Petitioner asserts that respondent Nos.5 and 6 herein have encroached on to the public road, thereby preventing ingress and egress to his property. Hence, he seeks to direct the respondent authorities to remove the encroachment and to restore the public road.

Respondent No.2-Jammikunta Municipality filed a counter-affidavit stating that respondent Nos.5 and 6 had constructed a Function Hall in the name and style of M.P.R. Gardens; that the allegation of the petitioner that respondent Nos.5 and 6 have encroached on to the public road and constructed a compound wall is specifically denied and that as there is no existing road on the ground, the question of encroachment does not arise.

In the same lines, respondent Nos.5 and 6 have also filed counter-affidavit.

Learned counsel for the petitioner draws the attention of this Court to the correction deed bearing document No.5068 of 2018 filed by respondent Nos.5 and 6 along with their counter-affidavit to

the effect that initially towards North, a road was shown and thereafter, the same came to be corrected.

It may be noted that essentially, there is a dispute with regard to the identity and the matter requires enquiry with regard to the allegation of the petitioner that respondent Nos.5 and 6 encroached on to the road. Such dispute cannot be decided in W.P.No.26271 of 2018.

Hence, W.P.No.26271 of 2018 is closed, leaving it open to the petitioner to work out the remedies in civil law.

So far as W.P.No.31679 of 2018 is concerned, as the allegation of the petitioner in W.P.No.26271 of 2018 that the petitioner herein (respondent No.5 in W.P.No.26271 of 2018) encroached on to the public road and made unauthorised constructions without permission, the municipal authorities are bound to take action in accordance with law.

With the above direction, W.P.No.31679 of 2018 is closed.

Miscellaneous applications, if any pending, in these Writ Petitions shall also stand dismissed. No costs.

CHALLA KODANDA RAM, J

Dt:15.03.2019

kdI

