

THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

WRIT PETITION No.3431 OF 2023

ORDER:-

This writ petition for a Mandamus is filed to declare the action of respondents 2 and 3 in interfering with the possession of the petitioner in respect of the land in an extent of Ac.0.00 $\frac{3}{4}$ cents covered by Sy.No.542 in Chemumiapet Village of Kadapa Mandal, bearing new Door No.4/386, without following due process of law as illegal and arbitrary and consequently sought direction to respondents not to interfere with her possession and enjoyment of the said property.

2. Heard learned counsel for the petitioner, learned Assistant Government Pleader for Municipal Administration and Urban Development appearing for 1st respondent and Sri Suresh Kumar Reddy Kalava, learned Standing Counsel for Municipal Corporation appearing for respondents 2 and 3.

3. As per the case pleaded by the petitioner, she is the owner of the land in an extent of Ac.0.00 $\frac{3}{4}$ cents covered by Sy.No.542 bearing new Door No.4/386 of Chemumiapet Village of Kadapa Mandal and that she got the said property under a

registered gift deed executed by her mother in the year 1986 and that she has been now constructing a compound wall in her property and respondents 2 and 3 have been obstructing her from constructing the said compound wall and trying to demolish the same without following any due process of law.

4. It is her case that earlier when some third parties interfered with her possession and enjoyment of the said property, that she has filed a suit in O.S.No.476 of 2022 on the file of learned Principal Junior Civil Judge, Kadapa and the defendants therein did not contest the suit and they remained *ex parte* and an *ex parte* judgment for permanent injunction was also granted in her favour.

5. Sri Suresh Kumar Reddy Kalava, learned Standing Counsel for respondents 2 and 3, on written instructions, would submit that the northern boundary of the property of the petitioner is "Sandhu rasta" i.e. a public pathway and complaints are received from the inmates of the locality in Spandana programme that the petitioner has been constructing a compound wall on the said public pathway and a survey that was made revealed that the petitioner has been constructing the said compound wall on public passage

causing obstruction to the inmates of the locality and a town survey report is also received to that effect. Therefore, he would submit that as there was an encroachment made on to the road, that steps are being taken to remove the said obstruction on the public pathway. He has also placed on record the written instructions received by him from the Commissioner of Municipal Corporation, Kadapa to that effect.

6. Even if it is found that the petitioner has encroached on to the public pathway and has been constructing a compound wall illegally, the respondents have to follow the due process of law to remove the said obstruction by giving prior notice to the petitioner and after making necessary enquiry as contemplated under law, then steps are to be taken to demolish the compound wall if it is ultimately found that it was constructed on a public pathway on the northern side of the property of the petitioner. Admittedly, no such notice was given and the due process of law is not followed by the respondents.

7. Therefore, in the said facts and circumstances of the case, the Writ Petition is disposed of with a direction to the respondents 2 and 3 to follow due process of law by giving prior notice to the petitioner calling for his explanation and to

make necessary enquiry to find out whether the petitioner has encroached on to the public pathway and has constructed the compound wall. If it is found that there was an encroachment made on the public pathway, the respondents have to take appropriate steps for its demolition according to law. The said exercise of giving notice and following due process of law shall be completed within six (06) weeks from the date of this order. Till the said notice is given and enquiry is concluded, as directed supra, the respondents shall not take any steps for demolition of the compound wall and the petitioner also shall not proceed with further construction of the compound wall. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any pending, in this Writ Petition, shall stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

Date : 13-02-2023

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