

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.27071 of 2015

O R D E R:

In the present writ petition the grievance of the petitioner is regarding failure on the part of the 3rd respondent-Station House Officer, Punjagutta Police Station, Punjagutta, Hyderabad, in giving protection for implementation of the injunction orders granted by the Court of II Additional Chief Judge, City Civil Court, Hyderabad in IA No.11942015 in OS No.501 of 2015 dated 8.7.2015, despite the representation said to have been submitted by the petitioner on 30.7.2015.

According to the petitioner, he along with his brother has instituted suit OS No.501 of 2015 on the file of the Court of II Addl. Chief Judge, City Civil Court, Hyderabad against the unofficial respondents herein for specific performance of the agreement of sale and also for perpetual injunction. In the said suit, the learned Judge granted ad-interim injunction order dated 8.7.2015 in I.A.No.1194/2015. It is the complaint of the petitioner herein that despite the said injunction order, the unofficial respondents are proceeding with the construction work and therefore he lodged a compliant with the 3rd respondent-police seeking implementation of the above injunction orders. It is the further grievance of the petitioner herein that despite receiving the said complaint, no action has been taken by the respondent-police pursuant to the said interim injunction order.

On the contrary, it is submitted by the learned Government Pleader for Home that if there is any violation of interim injunction orders passed by the civil court, it is always open for the petitioner herein to move the concerned Court by way of an application under Order 39 Rule 2-A of the Code of Civil Procedure, which reads as under :

" 2-A. Consequences of disobedience or breach of injunction :-

(1) In the case of disobedience of any injunction granted or other order made under Rule 1, or Rule 2 or breach of any of the terms on which the injunction was granted or the order made, the Court granting the injunction or making the order, or any Court to which the suit or proceeding is transferred, may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the Court directs his release.

(2) No attachment made under this rule shall remain in force for more than one year, at the end of which time, if the disobedience or breach continuous, the property attached may be sold and out of the proceeds, the Court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto."

In view of above provision of law, which provides for efficacious alternative remedy, this Court is not inclined to entertain the present writ petition. However, this Court deems it appropriate to leave it open for the petitioner herein to avail the said remedy as provided under Order 39 Rule 2-A of the Code of Civil Procedure.

For the aforesaid reason, the writ petition is closed leaving it open for the petitioner herein to approach the concerned court by filing an application under the provisions of Order 39 Rule 2-A of the Code of Civil Procedure, if he is so advised. Miscellaneous applications, if any pending in the writ petition, shall stand closed. No costs.

A.V.SESHA SAI, J

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Date:25.8.2015

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

W.P.No.27071 of 2015

25.8.2015