

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.31837 of 2012

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ORDER:

Questioning the action of the 1st respondent in not acting on the complaint lodged by the petitioner on 25.09.2012, this writ petition is filed.

The case of the petitioner is that he is the owner and possessor of land admeasuring Ac.0-06 guntas in Sy.No.80/29 and 81/1 of Garmilla Village, Mancherial Mandal, Adilabad District. While so, when one Thautam Bheemaiah tried to interfere with his peaceful possession, he filed a suit for permanent injunction and interim injunction was granted in favour of the petitioner. It is stated that Bheemaiah sold an extent of 404 sq.yards in Sy.No.80/E to one Ram Babu in the year 2002 and the 2nd respondent purchased the said land from Ram Babu. In the month of March 2012, the 2nd respondent and her husband and others trespassed into the petitioners land and dug a bore. Complaining about the same, the petitioner lodged a complaint to the Station House Officer, Mancherial and a crime was also registered in Crime No.100 of 2012 for the offences punishable under Sections 323, 447, 506 and Section 34 of I.P.C. Thereafter, the 2nd respondent obtained permission from the 1st respondent for construction of a house in Sy.No.80/E. But the 2nd respondent instead of constructing the house in Sy.No.80/E started constructing the house in the land covered by Sy.No.80/29 and 81/1 belonging to the petitioner. Against the same, petitioner made a complaint on 25.09.2012 to the 1st respondent. As no action has been taken by the 1st respondent, the present writ petition is filed.

Counter affidavit is filed by the 1st respondent stating that the petitioner has not filed any valid document to show that he is the owner and possessor of land situated in Sy.No.80/29 and 80/1 admeasuring

Ac.0-06 guntas of Garmilla Village, Mancherial Mandal. It is stated that the 2nd respondent has submitted documents along with construction permission and basing on the same, permission was granted and the 2nd respondent made construction as per the sanctioned plan. It is further stated that the Municipality is not made a party in the civil suits pending between the parties and that the civil rights of the parties are to be determined by the Civil Court and hence sought for dismissal of the writ petition.

Counter affidavit is filed by the 2nd respondent denying that construction by her in the petitioner's land. It is also stated that petitioner has not filed any document to show that he is the owner of the land in Sy.No.80/29 and 81/1 and has not given any boundaries to the alleged property. The 2nd respondent further states that she purchased the land admeasuring 404 sq.yards in Sy.No.80/E through registered sale deed No.3892/2005 dated 27.05.2005 from one Rambabu with specific boundaries and her name was also mutated in the revenue records vide proceedings dated 07.08.2005. Thereafter, she was granted building permission and accordingly she made constructions in Sy.No.80/E. It is also stated that she filed a suit bearing O.S.No.112 of 2012 for permanent injunction in respect of land in Sy.No.80/E and the Court below granted interim injunction in her favour and hence sought for dismissal of the writ petition.

In this case it is to be seen that civil suits are pending between the petitioner and the 2nd respondent and also between the petitioner and 3rd parties in respect of the subject land in the writ petition. The sole grievance of the petitioner is that though the 2nd respondent obtained building permission for construction in Sy.No.80/E, she made constructions in the land belonging to the petitioner in Sy.No.80/29 and 81/1 9. Counter is filed stating that basing on the ownership documents, permission was granted to the 2nd respondent and during the pendency

of the writ petition there was no interim order subsisting in favour of the petitioner. The learned counsel for the 2nd respondent submits that construction of the building has been completed as per the permission granted by the 1st respondent. Counter of the 1st respondent also indicates that the 2nd respondent has made constructions in accordance with building permission granted by it. The petitioner has not challenged the building permission because his grievance is in respect of the land in Sy.No.80/29 and 81/1. Since civil suits are pending and injunction is operating in the civil Court, the respondent Municipality cannot be directed to enquire about the claim of the petitioner. As such, no direction as sought for in the writ petition can be granted because these disputed questions of fact cannot be decided in the writ petition. More so, the Municipality while granting building permission looks into prima facie title of the applicant and mere grant of permission does not confer any rights and it is always subject to determination of rights by the competent civil court.

In view of the above, the prayer of the petitioner cannot be granted. Hence, the writ petition is dismissed. However, it is open to the petitioner to work out his remedies in the appropriate civil court since petitioner as well as the respondents have already filed civil suits. No costs.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 15.09.2015

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