

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

THURSDAY THE TWENTYSEVENTH DAY OF AUGUST
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 26451 OF 2015

Between:

Alladi Naga Bhushnam ... Petitioner

V/s.

The State of Telangana ,
Rep. by its Prl. Secretary
Home Department,
Secretariat, Hyderabad & Ors. ... Respondents

Counsel for the Petitioner: Sri G.Vasantha Rayudu

Counsel for the Respondents: GP for Home [TG]

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE A.V. SETHA SAI

-
WRIT PETITION NO. 26451 OF 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India for the following relief :

“To declare the inaction of the second respondent in not giving protection for the life and property of the petitioner by taking action against third respondent for making illegal construction of temple inspite of injunction orders granted, restraining the third respondent to make construction on the petitioner’s property as arbitrary and illegal and consequentially to direct the second respondent to give protection to the petitioner by obeying the orders of IX Additional Senior Civil Judge, Ranga Reddy district in IA.No.220 of 2015 in OS.No.1030 of 2015 and to pass such other suitable orders as this court may deems fit and proper in the interest of justice and equity.”

2. When the matter is called, written instructions submitted by the Sub-Inspector of Police, Alwal Police Station, Cyberabad Commissionerate have been placed on record by the learned Government Pleader for Home.

3. The written instructions reads as under:

“It is respectfully submitted that one Alladi Naga Bhusham/the petitioner herein obtained injunction orders against one M.Satyanarayana Sastri/third respondent herein on his residential property bearing H.No. 30-104, on Plot No.6 in survey No.362 situated at Sainar and one civil suit was pending before the Joint Collector, Ranga

Reddy district with regard to the land dispute.

It is further submitted that on 18/8/2015 the petitioner herein approached SHO Alwal and requested to provide police protection for his construction. Hence the respondent police made GD entry vide No.7 and advised him to approach concerned civil court as the matter is civil in nature and also directed the petitioner if he got any orders from the Hon'ble competent court or Hon'ble High Court, the respondent police will take steps to provide police protection as per law."

4. It is submitted by the learned counsel for the petitioner that despite injunction order granted by the Court of IX Additional Senior Civil Judge, Ranga Reddy district in I.A.No.220 of 2015 in OS.No. 1030 of 2015, the third respondent is proceeding with the construction on the petitioner's property and even though the petitioner made a complaint to the police, no action has been taken by the police so far.

5. On the contrary, reiterating the written instructions mentioned supra, it is the submission of learned Government Pleader that there is effective and alternative remedy available to the petitioner under the provisions of Order-XXXIX, Rule-2A of CPC and the petitioner herein can avail the same.

6. At this juncture, it may be appropriate to extract Order-XXXIX, Rule-2A of CPC, which reads as under:

Rule 2-A Consequence 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 the 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 continues, 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.

7. In view of the above alternative remedy available to the petitioner herein under Order-XXXIX, Rule-2A of CPC this court is not inclined to grant any relief as prayed for in this writ petition. However, it is open for the petitioner to approach the civil court for appropriate relief in accordance with the above provision of law.

8. For the aforesaid reason, the writ petition stands disposed of, keeping it open for the petitioner to approach the competent civil court which granted injunction order under the provisions of Order-XXXIX Rule-2A of CPC by way of filing an

application. If any such application is filed, the same shall be considered in accordance with law by the said court where OS.No.1030 is pending consideration.

9. With the above observation, the writ petition stands disposed of. No costs.

10. As a sequel, miscellaneous petitions if any, pending in
this writ petition shall stand closed.

JUSTICE A.V.SESHA SAI

27/08/2015

ISL

HONOURABLE SRI JUSTICE A.V. SETHA SAI

-
-
WRIT PETITION NO. 26451 OF 2015

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

Date:27/08/2015
Circulation No.
Court Master: I s L