

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 34117 of 2012

ORDER:

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Heard learned counsel for the petitioners, learned Government Pleader for Revenue and learned Government Pleader for Panchayat Raj and Rural Development. With the consent of both the parties, the Writ Petition is disposed of at the admission stage itself.

The present Writ Petition came to be filed declaring the inaction of the respondents in considering the representations dated 19.09.2012, 12.10.2012 and 17.10.2012 made by the petitioners requesting the unofficial respondents to stop proceeding further with the construction of compound wall encompassing the Muslim graveyard in Survey No.164 of Sangapatnam Village, as illegal and arbitrary and consequently remove the encroachments forthwith.

The petitioners made representations to the authorities concerned seeking protection from the encroachments and construction of a compound wall in respect of the said land, which is named as 'Rudra Bhoomi' to an extent of Ac.0.53 cents and used by both Hindu and Muslim Community for performing the last rites of the dead persons. The said land which is in dispute is abutting to the road leading to Chenugonda and Ramapuram Villages from Sangapatnam. It is stated that some of the persons belonging to a particular community, in the name of construction of a compound wall, collected donations and started encroaching upon the existing road margin by digging pits for starting construction. It is stated that the first petitioner made a representation dated 19.09.2012 to the second respondent requesting him to given necessary directions to the concerned with regard to the said issue. As no action was initiated, the petitioners made a representation dated 12.10.2012 to the third respondent expressing their grievance, but no action has been initiated. Questioning the action of the respondents in not taking any action on the representations made by the petitioners, the present Writ Petition came to be filed.

On 02.11.2012, this Court while issuing notice before admission, ordered that the neither the petitioners nor the fourth respondent shall construct any wall in the area earmarked as graveyard, except on the basis of permission accorded by the competent authority.

A counter came to be filed by the second respondent stating that the petitioners got conducted Survey on 09.10.2012 by the Deputy Inspector of Survey and it was found that there was some encroachments by way of construction of the compound wall on the road side. It was further stated that subsequently the construction of compound wall was stopped by the fourth respondent. It was also averred that the fourth respondent filed O.S.No.186 of 2012 in the Court of Junior Civil Judge, Banaganapalle, Kurnool District in respect of the land in the same survey number and in view of the same, no action could be initiated by the respondents as the matter is seized by the Civil Court.

A perusal of the material placed before the Court would show that the fourth respondent, who is alleged to have constructed a compound wall, filed O.S.No.186 of 2012 before the Court of Junior Civil Judge, Banaganapalle, Kurnool District. Since the matter is seized by the Civil Court, the official respondents will not be in a position to take steps in respect of the land in question. It is always open to the petitioners to get themselves impleaded in the said suit, contest the matter and obtain appropriate orders.

Hence, I see no reason to grant the relief sought for by the petitioners. Giving liberty to avail the remedies available under law, the Writ Petition is disposed of. No costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

28.10.2015

vhb