

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.5411 OF 2015

ORDER :

This writ petition is filed seeking a *Writ of Mandamus* declaring the order of the AP Endowments Tribunal at Hyderabad in I.A.No.1906 of 2011 in O.A.No.908 of 2011, dated 31.12.2014, as illegal and arbitrary wherein the Court below has directed the petitioners 1 and 2 herein to deposit an amount of Rs.50,000/- to the credit of 2nd respondent herein pending the main O.A. in respect of use and occupation of the OA schedule property from the date of filing the OA.

Learned counsel for the petitioner submits that the respondents 1 and 2 are only concerned with the property in Sy.No.493 and 494 of Attapur Village, Rajendranagar Mandal, Rangareddy District whereas the petitioners' property is situated at Sy.No.495/B. Therefore, the petitioners have raised a specific plea in the counter stating that they have nothing to do with the property in Sy.No.493 and 494 and their property is at Sy.No.493/B. The trial Court without deciding the said aspects passed the impugned order dated 31.12.2014. He also submits that it is for the respondents 1 and 2 to prove that the petitioners' property belongs to Endowments property since the petitioners have specifically denied the same in their counter.

On the other hand, learned Government Pleader for Endowments submits that though I.A. is filed in the year 2011, the petitioners are dragging on the issue, as such the trial Court has passed interim order pending O.A. directing them to deposit the amounts. She also submits that in similar circumstances this Court disposed of W.P.No.1723 of 2015 by upholding the

impugned order of the Tribunal. A perusal of the counter affidavit filed by the petitioners show that they are no way concerned with the OA schedule land situated in Sy.No.493 and 494 and that their land falls in Sy.No.495/B. But the Tribunal in its order dated 31.12.2014 has specifically stated that though respondents have filed counter, they have not come forward to substantiate their case.

Since the petitioners 1 to 3 specifically stated in the counter that they are owners of the land falling in Sy.No.495/B, the Tribunal should have at least dealt with the issue and should have *prima facie* finding, since it is only interlocutory application, before passing the interim orders. Further, the Government Pleader for Endowments relied on the order passed by this Court on 02.02.2015 in W.P.No.1723 of 2015 wherein it is stated that no documents were produced by the petitioner in support of his case before the Tribunal, as such the Tribunal has passed impugned order. But in the present case, the petitioner asserts that though he has filed the documents before the Tribunal, the Tribunal has not considered the same. In view of the same, since the Tribunal has not dealt with the plea raised by the petitioners in the counter, the impugned order is set aside. However, the Tribunal shall decide the I.A.No.1906 of 2011 after giving opportunity to both sides, within two (2) weeks from the date of receipt of copy of this order by giving a specific date to the petitioners to appear before it. If the petitioners fail to appear on the said date, the Tribunal is at liberty to pass appropriate orders. The Tribunal shall decide the Interlocutory Application without being influenced by any of the observations made herein.

Accordingly, writ petition is disposed of. There shall be no order as to costs. As a sequel, miscellaneous petitions pending, if

any, shall stand closed.

A.RAJASHEKER REDDY, J

09.03.2015
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