

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.34553 of 2015

Date:02.11.2015

Between:

Rehna Begum,

W/o Late Mohsin Hussain Khan

and another.

..... Petitioners

And:

The State of Telangana, repled by its

Principal Secretary, Municipal

Administration, Hyderabad and four others.

.....Respondents

Counsel for the Petitioner: Mr. N.Indrasena Reddy

Counsel for Respondent No.1: GP for Municipal Administration

Counsel for Respondent Nos.2 to 4: Mr. N.Ashok Kumar

(Print the name of Mr. N.Ashok Kumar,
subject to his filing memo of appearance
within one week from today.)

Counsel for Respondent No.5: None appeared

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to declare the inaction of respondent Nos.2 to 4 against the illegal construction undertaken by respondent No.5 over the land in T.S.No.28, House Nos.11-6-193 and 11-6-198 situated at Nampally Main Road, Nampally, Hyderabad, as illegal and arbitrary. The petitioners sought for a consequential direction to the said respondents to take immediate action for removal of the said illegal construction.

A perusal of representation, dated 25.8.2015, filed by the petitioners and also their pleadings in this Writ Petition would show that the dispute pertains to whether respondent No.5 has raised construction over the land belonging to him or that belonging to the petitioners.

Adjudication of the above-mentioned dispute raised by the petitioners requires recording of oral evidence, besides considering documentary evidence as to the identity of the land over which respondent No.5 has been making constructions. Such a dispute cannot be adjudicated either by respondent No.2 or by this Court in exercise of its jurisdiction under Article-226 of the Constitution of India. The appropriate remedy for the petitioners lies in filing a civil suit before the competent Court of civil jurisdiction for adjudication of such a dispute.

In this view of the matter, the Writ Petition is dismissed, without expressing any opinion on the merits of the case, with liberty to the petitioners to avail the above-mentioned remedy.

As a sequel to dismissal of the Writ Petition, W.P.M.P.No.44397 of 2015 shall stand dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

02nd November, 2015

DR