

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

MONDAY, THE EIGHTH DAY OF JUNE TWO THOUSAND AND FIFTEEN

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.15909 of 2015

Between:

Koti Venkaiah, S/o. Late Raghavaiah,
Aged 43 years, Occ: Cultivation,
R/o. Keerthivaripalem,
Vadarevu Panchayat,
Chirala Mandal, Prakasam Dist. & another

.. Petitioners

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Panchayatraj, Secretariat,
Hyderabad & 4 others

.. Respondents

WRIT PETITION No.15909 of 2015

Petitioners claim to be inherited 1/3rd share of property owned by Smt. Koti Venkata Subbamma in Survey Nos.665/1 and 665/5 of Epurupalem Village to an extent of Ac. 1.77 cents. However, there is an *inter se* dispute among the family members compelling the petitioners to file O.S.No.67 of 2014 praying to

grant injunction against the defendants. The said suit is pending on the file of Principal Junior Civil Judge, Chirala. While so, respondents 4 and 5 in the writ petition proposed to construct temple in the land above mentioned. The Gram Panchayat accorded permission for construction of such temple.

2. Alleging that such action of the respondents is *ex facie* illegal and arbitrary, this writ petition is instituted.

3. As seen from the pleadings in the affidavit filed in support of the writ petition and the material enclosed to the writ petition, no survey number is mentioned in the plan filed by the petitioners, which can be correlated to the land claimed by the petitioners. Be that as it may, the petitioners instituted O.S.No.67 of 2014, which is pending on the file of Principal Junior Civil Judge, Chirala, praying to grant permanent injunction against the defendants. The petitioners filed I.A.No.875 of 2014 in O.S.No.67 of 2014 praying to grant temporary injunction. The said I.A. was considered and by order, dated 19.01.2014, the I.A. was dismissed. The Court recorded the *prima facie* finding that the petitioners did not file any revenue records in support of the claim that the property belongs to them and they have also not established possession of the suit schedule property on the date of filing of the suit. Holding that the petitioners failed to prove their possession, the I.A. was dismissed. Thus, as on today the petitioners are not in possession and the dispute regarding the ownership and the entitlement is pending consideration in the Court of Principle Junior Civil Judge, Chirala. Though serious grievance is raised saying that the temple is being constructed in the property of the petitioners, no material is placed on record to show that the proposed temple is being constructed in the property of the petitioners and that the petitioners are the owners of the property in which temple is constructed. Without the consent or knowledge of the petitioners, no temple can be constructed in the private land. The petitioners have also not complained to any authority ventilating their grievance that illegally the temple is being proposed for construction on the land owned by them. That being so, no relief as sought for by the petitioners can be granted by this Court in exercise of extraordinary power under Article 226 of the Constitution of India. The writ petition, accordingly, fails.

4. The Writ Petition is, accordingly, dismissed. It is needless to observe that it is open for the petitioners to work out their remedies as available in law. Any observations made herein do not come in the way of working out such remedies. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 8th June, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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