

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.3574 of 2012

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ORDER:

The petitioners made an application dated 31.01.2002 and obtained permission from the 3rd respondent-Gram Panchayat for construction of Mulgies in open land located at Reddy Colony, Itchoda. As per the approved plan, the petitioners constructed 10 Mulgies and leased out to the tenants. While so, on the Southern side of the newly constructed Mulgies, there is an open plot belonging to respondents 4 to 10 and they have started construction of the building in their land without obtaining permission from the 3rd respondent. The petitioners objected to the same and also filed an application dated 07.12.2011 before the 3rd respondent. They have also filed Agency suit No.A/3099/2011 before the Agency Divisional Officer and Revenue Divisional Officer, Adilabad, for perpetual injunction against the respondents 4 to 10 along with a petition for temporary injunction. But the Revenue Divisional Officer rejected the application of the petitioners for temporary injunction. Against the same, the petitioners preferred an appeal. Meanwhile, the respondents 4 to 10 are trying to make constructions. Aggrieved by the action of the 3rd respondent in not acting on the application dated 07.12.2011, the present writ petition is filed.

Counter is filed by the respondents 4 to 10 stating that in respect of same cause of action, the petitioners filed a suit before the Agency Court and the said suit was dismissed. Thereafter, an appeal was also preferred. As such, the petitioners cannot maintain writ petition as well as suit simultaneously for the same relief.

The 3rd respondent also filed counter stating that no permission has been granted in favour of the petitioners for construction of Mulgies. It is also stated that the Gram Panchayat has no power to

grant permission and the permission granted by the Sarpanch in favour of the petitioners cannot be considered as valid one. Further, it is stated that the Gram Panchayat has initiated action against the unofficial respondents by issuing notice on 07.12.2011.

Heard learned counsel for the petitioner and Sri G.Narender Reddy, learned Standing counsel for R3.

In the instant case, it is to be seen that even according to the petitioners, they have filed suit against the respondents 4 to 10 before the Agency Court and the same was dismissed and in respect of same cause of action, petitioners have filed this writ petition. It is stated that the Gram Panchayat has initiated action against the unofficial respondents by issuing notice. The petitioners cannot agitate the same issue before the Agency Court as well as before this Court by way of a writ petition.

In view of the above facts and circumstances, I do not see any merit to entertain the writ petition.

Hence, the writ petition is dismissed. No costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 15.09.2015

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