

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.41035 of 2015

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Date: 17.12.2015

Between:

Syed Yousuf Shafiuddin

.. Petitioner

and

The State of Telangana
rep. by its Prl.Secretary
Municipal Administration
& Urban Development Dept.,
Hyderabad and 6 others

.. Respondents

Counsel for the petitioner:

Mr.P.Madhusudhan Reddy

**Counsel for respondent No.1:
Administration (TS)**

AGP for Municipal

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The Court made the following:

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Order:

This Writ Petition is filed for a Mandamus to declare the inaction of respondent Nos.2 and 3, in removing the structures, allegedly, raised by respondent Nos.4 to 7, as illegal and arbitrary.

A perusal of the record shows that the petitioner has filed OS.No.956 of 2015 against respondent Nos.4 to 7 for permanent injunction restraining them from raising any constructions in the common passage admeasuring 37 feet running from east to west and 16 feet wide from north to south of the suit schedule property.

It is the pleaded case of the petitioner that in IA.No.163 of 2015 filed by him in the aforesaid suit, the VIII Junior Civil Judge, City Civil Court, Hyderabad, has granted *ad interim* injunction restraining respondent No.4 herein from perpetually making any constructions, encroachment and obstructing his ingress and egress in the said common passage. It is the further case of the

petitioner that after passing of the said injunction order by the civil Court, respondent No.4 along with respondent Nos.5 to 7, who are his family members, has raised illegal constructions and that in spite of the complaints given by him to respondent Nos.2 and 3, the latter have not been taking any action.

From the pleadings of the petitioner, it is quite evident that there is a dispute between the petitioner on one side and respondent No.4 on the other with regard to the alleged common passage and the competent civil Court has granted an injunction order restraining respondent No.4 and the persons claiming through him from raising any constructions and thereby, obstructing the common passage. It is the further case of the petitioner that in violation of the said order of injunction, respondent Nos.4 to 7 have raised constructions.

As the very constructions, in respect of which the petitioner made complaints before respondent Nos.2 and 3, are subject matter of a civil dispute, it is not desirable for respondent Nos.2 and 3 to

interfere with the same. The appropriate remedy for the petitioner is to seek enforcement of the interim injunction order obtained by him by moving an appropriate application before the civil Court, which has granted the same. Instead of availing the remedy to this effect, the petitioner has needlessly invoked the public law remedy.

In this view of the matter, the Writ Petition is dismissed, however, with liberty to the petitioner to avail appropriate remedy as observed herein before.

As a sequel to dismissal of the Writ Petition, WPMP.No.52959 of 2015, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 17th December, 2015
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