

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION NO.23791 of 2015

Between :

Penala Sadanandam S/o.Somaiah,
Aged about 51 yrs, R/o.H.No.3-5-4/2,
Sudha Nagar, Hanamkonda, Warangal District.

.. Petitioner

and

The State of Telangana,
Rep., by its Principal Secretary,
Municipal Administration & Urban Development Department,
Secretariat, Hyderabad & others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED : 31.07.2015

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SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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1. Whether Reporters of Local Newspapers : Yes / No
may be allowed to see the Judgments ?

2. Whether the copies of judgment may be : Yes / No
marked to Law Reporters/Journals

3. Whether Their Lordship wish to : Yes / No
see the fair copy of the Judgment ?

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.23791 of 2015

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ORDER :

The petitioner claimed to have entered into an agreement of sale on 21.12.2009 of an open site admeasuring 244.5 Square yards in Sy.Nos.11/23, 11/25, 11/27 and 11/290 situated opposite to H.No.2-11-3657, Lashkar Singaram Revenue village, Vidyaranyaपुरi, Hanamkonda, Warangal. The petitioner alleges that the 3rd respondent illegally encroached into the property and undertaking construction of building. Aggrieved by such illegal construction, the petitioner instituted O.S.No.912 of 2013 pending on the file of II Additional Senior Civil Judge, Warangal, seeking the relief of Specific Performance of agreement of sale. The petitioner also filed I.A.No.815 of 2013 for grant of *ad-interim* injunction restraining the 3rd respondent and his associates from raising any kind of structures in the subject site. The *ad-interim* injunction was granted on 03.12.2013. However, the said *ad-interim* injunction order was vacated. While so, alleging that the 3rd respondent is undertaking construction, this writ petition is filed.

2. Learned counsel for the petitioner contends that alleging illegal construction, a representation is submitted on 30.06.2015 to the respondent-Corporation. The respondent-Corporation has not taken any action and therefore, this writ petition is filed. Learned counsel also submits that, if the 3rd respondent is allowed to undertake construction, grave prejudice would be caused to the petitioner.

3. As seen from the averments in the affidavit filed in support of the writ petition, it is clear that there is a dispute regarding ownership and possession and there are rival claims to the subject property. The petitioner filed O.S.No.912 of 2013 seeking specific performance of agreement of sale. Admittedly, the petitioner is the agreement holder and the dispute is between the petitioner and owner of the property. Be that as it may, an injunction order granted earlier in favour of the petitioner is vacated and therefore, no further orders can be passed on the suit schedule property which is subject matter of O.S.No.912 of 2013 on the file of II Additional Senior Civil Judge, Warangal. A direction to the respondent-Corporation to consider the representation of the

petitioner cannot be passed at this stage. Hence, Writ Petition under Article 226 of the Constitution of India is not maintainable and petitioner has to pursue his civil remedy.

4. Accordingly, the Writ Petition is dismissed. Any observations made in this writ petition do not come in the way of petitioner prosecuting his grievance in the pending suit. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

31st July, 2015.
Rds

P.NAVEEN RAO,J