

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No. 1181 of 2015

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the 2nd respondent in purporting to demolish the compound wall of Nakshatra Township situated in Sy.Nos.32, 34 and 35 of Kothapet, Saroornagar Mandal, Ranga Reddy District, vide notice in Lr.No.G.P/Kothapet/2015, dated 23.01.2015, as illegal and arbitrary.

The case of the petitioners is that the 1st petitioner is an Association consisting of owners of plots in Sy.Nos.32, 34 and 35 situated in M/s. Nakshatra Township of Kothapet Village, Saroornagar Mandal, Ranga Reddy District and the 2nd petitioner is the developer of the land in the said survey numbers and that there is a compound wall encircling the Nakshatra Township and it is protecting the houses. While so, the 2nd respondent-Grampanchayat issued a notice i n Lr.No.G.P/Kothapet/2015, dated 23.01.2015, directing the petitioners to remove the compound wall within three days, failing which, the compound wall will be removed. It is alleged that the 2nd respondent has not given any show cause notice or an opportunity to the petitioners before issuing the impugned notice and that the impugned notice has been given at the behest of one K.Laxma Reddy and others. Therefore, the impugned notice is contrary to law and unsupported by the provisions of the A.P. Panchayat Raj Act, 1994.

A counter affidavit is filed by the 2nd respondent admitting that Nakshatra Township existed in Sy.Nos.32, 34 and 35 of Kothapet village and the 1st petitioner is one of the plot owners in Nakshatra Township and denied that it is a gated community to construct a compound wall. It is stated that when the petitioners' vendors tried to

construct a compound wall by closing a passage, one Mr. Kallem Sitarami Reddy and others filed O.S.No.2892 of 2006 on the file of the III Additional Junior Civil Judge, Ranga Reddy District, and the said suit was decreed on 20.11.2008. In spite of a decree of the civil Court, the petitioners closed the passage. Thereafter, the Gramapanchayat got issued a notice on 23.01.2015 on receiving a complaint from one K.Lakshma Reddy and others. Though the petitioners alleged about the same in the affidavit, they did not choose to implead said K.Lakshma Reddy and others as party respondents in the writ petition. As per the sale deed bearing registration No.6930 of 2007, a passage is in existence as on the date of execution of the sale deed. In view of the same, the 2nd respondent is justified in issuing the present notice dated 23.01.2015.

Heard both sides.

Initially, this Court granted status-quo and it is still in force. It is not in dispute that Nakshatra Township is not a gated community entitling the members of the 1st petitioner Association to construct a compound wall around their houses. When once the owners applied for layouts and constructed houses, the roads would vest in the Gramapanchayat. As such, the owners have no right to encroach or close the roads. In this case, the vendors of the petitioners have suffered a decree in the hands of the complainants, and in spite of the same, the petitioners constructed a compound wall encircling their houses which is not permitted as per the lay out sanctioned by the Gramapanchayat. No reply affidavit is filed by the petitioners disputing the fact that the civil Court has granted permanent injunction against their vendors. The petitioners also did not state that the Gramapanchayat has given permission for construction of the

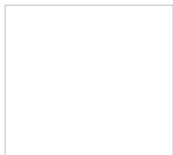
compound wall. When that is the admitted factual position, question of issuing a show cause notice to the petitioners does not arise. The petitioners have not impleaded the complainants at whose instance the impugned notice is issued which is also fatal to the maintainability of the writ petition. In view of the same, I do not see any merit in the writ petition.

Accordingly, the Writ Petition is dismissed. Since the petitioners have constructed the compound wall without obtaining any permission from the 2nd respondent-Gramapanchayat and in violation of the decree passed by the Civil Court, the petitioners are directed to remove the compound wall. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall also stand dismissed.

A. RAJASHEKER REDDY, J.

26th February, 2015
cbs



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W.P.No.1181 of 2015

26th February, 2015

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