

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.34419 of 2015

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DATED : 14.10.2015

Between :

M. Ramulu Goud S/o.M. Buchanna Goud,

Aged 45 yrs, R/o.3-14-117/1/D,

Plot No.18/Part, Road No.2,

Vivekananda Nagar, Mansoorabad,

L.B.Nagar, Ranga Reddy District.

.. Petitioner

and

Greater Hyderabad Municipal Corporation,

Rep., by its Commissioner,

Tank Bund, Hyderabad & 5 others.

.. Respondents

This court made the following :

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ORDER :

The petitioner claims to be a resident of Plot No.18/Part, Vivekanandanagar Colony, Mansoorabad. According to the petitioner, the 5th respondent purchased Plot No.24, in the said colony, admeasuring 169 Square yards. The petitioner alleges that under the guise of purchasing Plot No.24, the 4th respondent encroached on to the road portion abutting to the plot. On account of such encroachment, the ingress and egress of the colony is affected and petitioner is directly affected on account of larger vehicular movement from in front of the plot of the petitioner.

2. The material papers enclosed to the writ affidavit would disclose that alleging illegal encroachment on road, the Vivekananda Nagar Colony Residents Association filed O.S.No.480 of 2009 against the 4th respondent herein and the said suit was dismissed by judgment dated 30.04.2013 on the file of II Additional Junior Civil Judge, Ranga Reddy District. It appears so far no appeal is filed on the said judgment. The 4th respondent is the defendant in the said suit. The 5th respondent purchased the said plot through 4th respondent under agreement of sale-cum-GPA executed on 21.09.2004. Aggrieved by illegal interference by the residents of the colony, 3rd respondent filed O.S.No.425 of 2015 which is pending on the file of Principal Junior Civil Judge, Ranga Reddy District at L.B.Nagar. In I.A.No.583 of 2015, on elaborate consideration of rival claims including the claim of the petitioner herein, who was the 4th respondent there in, order was passed on 09.09.2015. The trial Court noticed that nowhere in the defence of the respondents, it was claimed that it is the only way to ingress and egress to their residential plots and that petitioner therein was obstructing their ingress and egress, therefore, injunction was granted. The said order is not assailed so far.

3. The issue regarding the alleged illegal encroachment on to the road by the 3rd respondent herein is now pending consideration by the trial Court in the above suit. While so, this writ petition is filed praying to declare the inaction of respondents 1 and 2 in not proceeding against the illegal encroachments made by the 3rd

respondent on the road passing between Plot No.19 & 24 on the Northern side, Plot Nos.18 and 25 on the southern side. Since the issue is now pending adjudication before the trial court, all the issues have to be resolved before the trial Court. Moreover in the earlier suit instituted by the Vivekanandanagar, Residents Association filed against the vendor of the 3rd respondent, their claim of illegal encroachment was decided against the Association. Therefore, it cannot be said that the respondent-Municipal Corporation is deliberately sitting quiet and no action is taken against the 3rd respondent. Thus the declaration as sought for by the petitioner cannot be granted at this stage, and writ petition is liable to be dismissed.

4. Accordingly, the Writ Petition is dismissed. However, it is always open to the petitioner to contest the pending suit as well as take appropriate legal course of action as warranted by law against the encroachments made by 3rd respondent. There shall be no order as to costs.

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

P.NAVEEN RAO,J

14th October, 2015.

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