

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINETH DAY OF JANUARY
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.1366 of 2015

BETWEEN

Sarnala Vijayalakshmi and another

... PETITIONER

AND

The Andhra Pradesh Eastern Power Distribution Company Limited and five others

...RESPONDENTS

The Court made the following:

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ORDER:

Heard learned counsel for the petitioners and learned standing counsel for the respondents.

2. Petitioners claim that the land admeasuring Ac.0-60 cents in R.S.No.87/7 of Velagapadu Village, T.Narasapuram Mandal, West Godavari District, on which respondent Nos.1 to 3 are constructing an office building is on the joint family property belonging to the petitioners. It is also stated that respondent No.6, who is stated to have executed a gift in favour of respondent No.4, has no authority and the document of gift itself shows that the property is ancestral property. Petitioners state that they have already filed a suit for partition before the Principal Senior Civil Judge, Eluru, viz.,

O.S.No.492 of 2014, and the aforesaid land is also part of the said suit schedule

i.e., B-Schedule. The present writ petition is filed seeking a Mandamus against respondent Nos.1 to 3 from taking up construction of office building on the said land on the ground that it is the joint family property of the petitioners.

3. Even going by the averments of the petition, the relief with regard to the land, in question, on the ground that the said land forms part of the joint family property, for which a partition suit is already pending before the competent civil court, whether the said land is part of the Joint family property or not is an issue which falls for consideration in the said civil suit. The said issue cannot be adjudicated in the present writ petition. In view of the nature of the dispute and the questions of fact involved, the construction taken up by respondent Nos.1 to 3, on the basis of title acquired by them, is also a matter which the civil court would adjudicate. Petitioners are, therefore, at liberty to take appropriate steps in the pending civil suit. However, the Mandamus, as sought for, cannot be granted as none of the issues can be adjudicated in this writ petition.

Hence, the writ petition is dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

January 29, 2015
LMV