

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P.No.42344 of 2015

Date : 29-12-2015

Between:

Uppari Ravinder and another ..
Petitioners

And

The State of Telangana,
Represented by its Principal Secretary,
Municipal Administration and
Urban Development Department,
Hyderabad and others ..
Respondents

Counsel for respondent No.1 : Assistant Government
Pleader for
Municipal Administration and Urban Development
(TS)

Counsel for respondent Nos.2 and 3 : --

Counsel for respondent No.4 : --

Counsel for respondent No.5 : --

The Court made the following :

ORDER:

Petitioner No.1 averred that he is the absolute owner and possessor of lands admeasuring Ac.0-24 guntas in Sy.No.974 and Ac.0-09 guntas in Sy.No.22 of Patancheru Revenue village; that these properties are his ancestral properties and that out of the said properties, the father of petitioner No.1 has gifted the latter 50% of his share and the remaining 50% was gifted to petitioner No.2. That respondent No.5 is claiming that her plot is situated in Sy.No.22 and that on coming to know about the same, the petitioners made a representation to respondent No.3 on 20-10-2012 not to grant building permission in respect of the said plot. That respondent No.5 filed O.S.No.32 of 2013 in the court of the Principal Junior Civil Judge, Sangareddy with the plea that she has purchased 100 sq. yards in Plot No.194/Part B in Sy.Nos.4 to 9, 11 to 17, 20, 21, 23 to 27, 31 to 33, 550, 970 etc; that as the petitioners had no objection for grant of injunction in respect of the said survey numbers, the application for injunction was not opposed; and that

respondent No.5 obtained building permission on 12-3-2013 from respondent No.3. Petitioner No.1 further averred that in the guise of the said building permission when respondent No.5 tried to encroach their land, the petitioners resisted and respondent No.5 has obtained Police protection on 11-10-2013; that the petitioners have also filed O.S.No.291 of 2013 wherein they have sought for injunction and that respondent No.5 is avoiding to take notices in the petition filed for injunction which is still pending. That the information obtained under the Right to Information Act 2005 by the petitioners revealed that the plot claimed to have been purchased by respondent No.5 and in respect of which building permission has been granted is not situated in any layout; that the same does not contain particular survey number and boundaries nor the roads and other amenities are provided and that on misrepresentation and playing fraud, respondent No.5 has obtained building permission from respondent No.2 and that when she tried to enter the petitioners' lands, they have filed a police complaints on 12-11-2015 and 17-11-2015 and as the said complaints were not registered, the petitioners filed W.P.No.38699 of 2015 which was disposed of by this Court by order dated 27-11-2015 directing the respondents therein to take action as per law expeditiously and that till date no action is taken on the petitioners' complaints. That respondent No.5 highhandedly removed the boundary stones fixed by the

Revenue officials and encroached the petitioners' lands and started making illegal construction, that the petitioners filed representations before respondent Nos.2 and 3 on 18-11-2015 and 5-12-2015 and that the respondents are not taking any action thereon. That respondent No.5 is taking further action for construction of the building on the petitioners' land in the guise of the permission granted by respondent No.2.

The facts pleaded by the petitioners as noted above show that there is a serious civil dispute between them on one side and respondent No.5 on the other and the suit and the counter suit filed by them are pending before the court of competent jurisdiction and that respondent No.5 is raising construction in pursuance of the building permission granted as far back as 12-3-2013. For nearly three years, the petitioners failed to question the said building permission. The sum and substance of the petitioners' plea is that respondent No.5 has encroached upon their property and has been raising construction thereon and that inspite of their complaints, respondent Nos.2 and 3 have not been taking any action.

In my opinion, this Writ Petition is wholly misconceived as in the garb of seeking enforcement of public duty of respondent Nos.2 and 3, the petitioners have raised the property dispute between themselves and respondent No.5 in this Writ Petition. The question whether respondent No.5 has encroached upon the

petitioners' property or not, cannot be adjudicated by respondent Nos.2 and 3 and such a dispute could be resolved only by the competent civil court. Admittedly, the suits filed by the petitioners and respondent No.5 with respect to the same subject matter are pending and such being the case, the petitioners cannot be permitted to avail the public law remedy of a Writ Petition before this Court. Having regard to the nature of the dispute, it is not desirable to compel respondent Nos.2 and 3 to intervene as it is only the civil court which is competent to resolve such disputes between the petitioners on the one side and respondent No.5 on the other. If the petitioners succeed in establishing that respondent No.5 has encroached upon their property before the civil court, they are entitled to seek the consequential relief of respondent No.5's eviction before the same court.

For the above mentioned reasons, I do not find any merit in this Writ Petition and the same is accordingly dismissed, with liberty to the petitioners to pursue their remedies before the civil court.

As a sequel to the dismissal of the Writ Petition, WPMP No.54612 of and 54613 of 2015 filed by the petitioners for interim reliefs shall stand dismissed as infructuous.

Justice C.V. Nagarjuna Reddy

Date : 29-12-2015

GHN/AM