

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.40389 of 2014

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“To issue a writ or order or direction more particularly one in the nature of WRIT OF MANDAMUS, directing the respondents 2 to 4 to register a crime against the respondents 5 to 8 pursuant to the Complaint dt.25.12.2014 given by the petitioner and to take action against them in accordance with law and also to implement the order of status quo dt.18.02.2013 in EP No.8/2013 passed by IX Junior Civil Judge, at Hyderabad, by stopping the illegal construction work being carried out by the respondents 5 to 8 on the petitioner's property bearing municipal No.17-1-197/4/A, admeasuring 122 sq.yards, situated in Ward No.17, Block No.1, Dhobighat, Madannapet, Saidabad, Hyderabad District”

2. Heard Sri P.Shiv Kumar, learned counsel for the petitioner, learned Government Pleader for Home, appearing for respondents 1 to 4 and Mohammed Shujauddin for Respondents 5 to 8, apart from perusing the material available on record.

3. It is pleaded in the affidavit filed in support of the writ petition that the petitioner along with other similarly placed individuals filed Claim Petition being E.A.No.34 of 2013 in E.P.No.8 of 2013 on the file of the Court of IX Junior Civil Judge, Hyderabad in respect of the property bearing Municipal No.17-1-197/4/A admeasuring 122 sq.yards situated at Ward No.17, Block No.1, Dhobighat, Madannapet, Saidabad, Hyderabad. In the said application, the Court of the IX Junior Civil Judge, Hyderabad passed the following order:

“Number of claim petitions are filed in this E.P. On the other hand, bailiff submitted his report stating that warrant has been executed. The case of the claim petitioners is that bailiff filed false report and that they have not signed on delivery warrant. In these facts and circumstances of the case, the parties i.e. Decree Holders and claim petitioners, judgment debtors should

maintain status quo till further orders and should commence trial and cooperate with this court in early disposal of claim petitions. E.As. pending call on 20.2.2013”.

4. It is the further case of the petitioner herein that the respondents 5 to 8 herein claiming to be GPA holders of decree holders encroached upon the petitioner's property and started raising illegal structures notwithstanding the order of status quo. It is further pleaded that the petitioner herein lodged complaint to the respondents 3 and 4 on 25.12.2014, requesting to take stringent action against respondents 5 to 8 for committing the offence of criminal trespass and other related offences. Eventually, it is the grievance of the petitioner herein that the 4th respondent failed to register any crime against respondents 5 to 8 nor the respondents 2 and 3 gave any instructions to 4th respondent to act in accordance with law and register the crime.

5. This Court, while ordering notice before admission on 21.1.2015, passed the following order:

“The petitioner complains inaction on the part of the police in enforcing the order of status-quo passed by the learned IX Junior Civil Judge, Hyderabad, on 18-02-2013 in E.P.No.8 of 2013.

The instructions received by the learned Government Pleader show that previously the petitioner filed a complaint against unofficial respondents, based on which a case in Cr.No.2 of 2013 was registered at Madannapet Police Station on 07-01-2013 and after completing the investigation, final report was filed before the concerned jurisdictional criminal court on 28-02-2013 referring the case as ‘false’. While so, the petitioner has filed a complaint alleging that the order of status-quo passed by the civil court is being flouted by the unofficial respondents. The instructions of the learned Government Pleader merely state that it is for the petitioner to approach the said civil court and complain regarding violation of status-quo order and that the police cannot interfere with the same.

Prima facie, the police cannot permit flouting of the status quo order granted by the civil court by anybody and it is the duty of the police to enforce the said order. Hence, the petitioner is given liberty to approach the said Civil Court and bring to the

notice of the Court regarding violation as alleged. The 4th respondent shall also ensure that the order of the Civil Court referred to above is implemented in its letter and spirit by the persons named in the status-quo order and the 4th respondent shall accordingly take appropriate steps in accordance with law.

Post after two weeks.”

6. Seeking vacation of the above said order passed by this Court, W.V.M.P.No.1708 of 2015 supported by a counter affidavit has been filed by respondents 5 to 8 in the writ petition, denying the averments made in the affidavit filed in support of the writ petition. Apart from the above aspects, it is stated in the counter affidavit that there is absolutely no iota of truth in the case of the petitioner and the petitioner has given false complaint for extraneous reasons for converting civil dispute into a criminal issue by approaching the police. It is also stated in the counter affidavit that the writ petitioner herself filed O.S.No.95 of 2013 on the file of Court of VII Senior Civil Judge, Hyderabad against respondents 5 and 6 for recovery of possession of self-same property, which clearly shows that the petitioner is not in possession of the property. It is brought to the notice of this Court that after filing the writ petition, the police registered F.I.R.No.19 of 2015 against the unofficial respondents. It is also brought to the notice of the Court that pursuant to the interim orders granted by this Court, the writ petitioner herein filed E.A.No.79 of 2015 in E.A.No.34 of 2013 in E.P.No.8 of 2013 on the file of the Court of IX Junior Civil Judge, Hyderabad for police protection under Section 151 of CPC and is pending consideration as of now.

7. Taking into consideration the totality of the circumstances and the nature of controversy, this Court deems it appropriate to direct the Court of IX Junior Civil Judge, City Civil Court, Hyderabad to pass appropriate orders on the said E.A.No.79 of 2015 to have a quietus for the entire issue. It is also brought to the notice of this Court that after

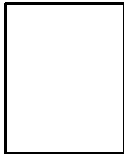
passing interim orders by this Court, absolute peace is prevailing in the area and no untoward incident is reported.

8. In view of the above reasons, the writ petition is disposed of, directing the Court of IX Junior Civil Judge, City Civil Court, Hyderabad to pass appropriate orders in E.A.No.79 of 2015 in E.A.No.34 of 2013 in E.P.No.8 of 2013 within a period of one month from the date of receipt of this order. Till then, the interim arrangement made by this Court on 21.1.2015 in the present writ petition shall continue. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 30.7.2015

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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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W.P.No.40389 of 2014

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30.7.2015

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THE HON’BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.40389 of 2014

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Between:

Smt.Ayesha Bee

... Petitioner

and

State of Telangana, rep. by its
Principal Secretary, Home Department,
Secretariat, Hyderabad and others.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 5th August, 2015

SUBMITTED FOR APPROVAL:

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THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

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| 1. Whether Reporters of Local Newspapers
May be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Their Lordship wish to see the
Fair copy of the judgment? | Yes/No |