

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WVMP.No.2028 of 2012

in

WP.No.9621 of 2012

and

WP.No.9621 of 2012

ORDER :

Heard the counsel for petitioner, the learned Government Pleader for Revenue, for respondent nos.1 to 4; and Sri Sai Gangadhar Chamarty for 5th respondent.

2. The parties will be referred to as per their array in the Writ Petition.

3. The petitioner has filed this Writ Petition seeking a *Writ of Mandamus* to declare the action of respondents in interfering with her alleged peaceful possession and enjoyment of the house property situated at Ward No.1, Block No.7 NTS No.387/23 of Vidyadharapuram, Vijayawada; and for a direction to respondents not to interfere with her alleged peaceful possession and enjoyment of the said house property.

4. The petitioner contends that the subject property is 309 Sq.Yards which is a vacant site occupied by her father who had been given an Occupancy Certificate No.115 dt.26.10.1976; that the 3rd respondent had issued

a certificate on 02.06.1977 permitting petitioner's father to construct RCC terraced building in the occupied site, and such building was constructed. She contends that her father died in the year 1985, that her mother also died in the year 1992, and since then she was in exclusive possession of the said property. According to her, her sister by name Hussain Bee, who had no right in the property, alienated the property to certain third parties, who in turn alienated it to 5th respondent; that 5th respondent alienated it further to 6th respondent by way of a Gift; and the 3rd respondent is supporting 6th respondent and instructing the petitioner to vacate the land so that it can be handed over to 6th respondent. She contends that the 6th respondent should be compelled to approach the Civil Court for establishing his rights and he cannot be allowed to influence 3rd respondent and dispossess petitioner from the subject land.

5. The respondent nos.5 and 6 have filed WVMP.No.2028 of 2012 specifically contending that petitioner's sister sold the property on 15.03.2004 to one Shaik Shakat Ali; that the said person alienated the property to one Polavarapu Nookaraju on 01.07.2011; that the 5th respondent then purchased it under a sale deed dt.12.11.2011 and then executed a registered Gift Deed in favour of 6th respondent on 12.12.2011. They

contended that respondent nos.5 and 6 are in peaceful possession and enjoyment of the said property; that petitioner filed O.S.No.688 of 2011 before the I Additional Junior Civil Judge, Vijayawada against her sister Smt. Hussain Bee for injunction; that the said suit was dismissed on 25.01.2012; and suppressing this fact, the present Writ Petition has been filed.

6. The counsel for petitioner stated that petitioner had filed O.S.No.688 of 2011 and that the suit was dismissed on 25.01.2012, but an appeal preferred against the judgment in the suit is pending.

7. Admittedly, there is no mention of the said suit in the affidavit filed by petitioner in support of the Writ Petition. There is no reason assigned why this fact is not stated in the affidavit filed by petitioner.

8. Thus, the petitioner has suppressed crucial facts and has not come to the Court with clean hands.

9. Having sought relief of injunction in the Civil Suit and failed, the petitioner cannot approach this Court under Article 226 of the Constitution of India and seek a similar relief by impleading respondent nos.1 to 4 in the Writ Petition.

10. Therefore, the Writ Petition is dismissed with costs of Rs.1,000/- to be paid by petitioner to 6th respondent;

and the interim order granted on 04.04.2012 in WP.No.9621 of 2012 is vacated, and WVMP.No.2028 of 2012 is allowed.

11. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 15-06-2016

Ndr/*