

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

WRIT PETITION No.10423 OF 2012

ORDER:

Heard learned counsel for the petitioner and Sri Seshadri Gorella, learned standing counsel for the 1st respondent.

2. Petitioner herein claims to be the owner of the land admeasuring Acres 0.64 cents in Survey No.794/12 situated at Pamidipadu Village, Korisapadu Mandal, Prakasam District. It is further stated that one Mr.Sadineni Haribabu, son of his brother Nageswara Rao, fraudulently obtained a registered settlement deed dated 05.09.2002, by impersonating the petitioner's mother by fraudulent means. It is further stated that the petitioner's mother never executed any document much less the so-called settlement deed 05.09.2002. It is also further stated that during her lifetime, petitioner's mother instituted suit O.S.No.165 of 2003 on the file of the Principal Junior Civil Judge, Addanki, for cancellation of the settlement deed dated 05.09.2002 and for consequential permanent injunction and pending the said suit, petitioner's mother died on 06.08.2006. Later, the petitioner herein and other legal representatives were brought on record and the said suit is pending trial. It is further alleged in the writ affidavit that the above said Mr.Sadineni Haribabu, with a *mala fide* intention and in collusion with the

2nd respondent executed sham and nominal sale deed dated 04.10.2010. According to the petitioner, the said Mr.Sadineni Haribabu, does not has any manner of right over the subject property and has no right at all to alienate the same. It is further stated that the petitioner herein instituted O.S.No.21 of 2012 on the file of the Principal Junior Civil Judge, Addanki, for declaration of the sale deed dated 04.10.2010, as null and void and the petitioner herein also filed I.A.No.35 of 2012 for grant of ad-interim injunction and the same is pending consideration. While the things being so, the present writ petition came to be filed with an allegation that without any valid permission or approval from the 1st respondent – Gram Panchayat, 2nd respondent is proceeding with the construction activity and in the event of the same being permitted, the very purpose of the said suits would be defeated.

3. According to the learned counsel for the 1st respondent– Gram Panchyat, since the suits between the parties are pending consideration and as the petitioner herein already filed an injunction application in O.S.No.21 of 2012, the petitioner herein cannot be permitted to avail the remedy available under Article 226 of the Constitution of India simultaneously. This Court finds sufficient force in the said submission of the learned standing counsel for the 1st respondent – Gram Panchayat.

4. Since the suits are pending and injunction application is also pending, this Court is not inclined to exercise the jurisdiction under Article 226 of the Constitution of India. Accordingly, Writ Petition is dismissed.

5. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

22.11.2016
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