

HON'BLE SRI JUSTICE S.V. BHATT

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Writ Petition No.7145 of 2012

ORDER:

Heard Mr. K.K.Sekhar, learned counsel representing Sri P.Venugopal, learned counsel for the petitioners.

2. The petitioners pray for mandamus declaring the action of the respondents in dispossessing the petitioners from House No.13-6-449/32 i.e., Plot Nos.32 & 35 forming part of Sy.Nos.146 and 148, Sainagar, Gudimalkapur, Asifnagar Mandal, Ranga Reddy District, as illegal, arbitrary, violative of Articles 14 and 300-A of the Constitution of India.

3. The petitioners assert that they are the absolute owners of the subject plot. The affidavit filed by the petitioners refers to W.P.No.854 of 2002 and the interim order passed on 17.01.2002 by this court. The affidavit does not contain minimum allegations in support of the exclusive title claimed by the petitioners. Mr. Sekhar, learned counsel for the petitioners, however, places reliance upon the document dated 14.10.1961, agreement of sale dated 09.07.2003 and another agreement of sale dated 01.12.2001. He further submits that during pendency of the writ petition, it appears from the stand taken in the counter-affidavit, the respondents have initiated proceedings under Land Encroachment Act and orders are passed. Therefore, he prays for protection of alleged possession of the petitioners based upon the documents referred to above.

4. With the assistance of the learned Assistant Government Pleader, I have perused the counter-affidavit filed by 4th respondent.

5. The petitioners through the instant writ petition seek protection of their alleged rights in the subject plots. The petitioners rely upon the document dated 14.10.1961, agreement of sale dated

09.07.2003 and 01.12.2001. For the limited purpose of appreciating the flow of title in favour of the petitioners, I have examined these documents. The registered sale deed does not contain the survey numbers. The vendees under the said registered sale deeds claim to have sold an extent of 200 sq. yards bearing Municipal numbers with the following boundaries.

“All that the house bearing Municipal No.13-6-449/32, on Plot No.32, in Survey Nos.148 and 146 admeasuring 200 sq. yards or 168 sq. mtrs, situated at Sainagar, Gudimalkapur, Hyderabad, A.P., and bounded as follows: North – 30’ wide road, South – Plot No.35, East – Plot No.33 and West – Plot No.31.”

6. The petitioners basing upon agreement of sale claim title to subject plot. This court is not considering the claim of petitioners for declaration of title. The grievance is that their possession should be protected by reference to these documents. Learned counsel appearing for the petitioner, to the repeated query of this court, whether the petitioners by reference to these documents, more particularly, when the affidavit filed by the petitioners is bereft of supporting assertion, can the court consider and grant prayer, he fairly stated that the documents are not referred to in the writ affidavit and there is no evidence in support of alleged possession of petitioners over the plot. Be that as it may, in the considered view of this court, the petitioners do not have anything to do with the documents referred to above. Further, it is well settled that the agreement of sale by itself does not convey title or right to the agreement holder. The right asserted by the petitioners is inchoate, unavailable and not supported by the documents. On this ground, the petitioners failed to establish a right vis-à-vis the subject plot.

7. The writ petition fails and accordingly, dismissed. Mr. Sekhar, learned counsel, has not pressed the documents relied upon in the writ petition. There is no order as to costs. Pending miscellaneous petitions

if any in this writ petition shall stand dismissed in consequence.

S.V.BHATT, J

Date: 19.07.2016
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HON’BLE SRI JUSTICE S.V. BHATT

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Date: 19.07.2016

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