

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

WRIT PETITION No.4577 of 2011

ORDER:

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

“to issue writ, order or directions more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in interfering with the peaceful possession and enjoyment of the rights of the petitioners and enjoyment of power supply and in trying to influence the 2nd respondent to dismantle and disconnect the power supply to the petitioners' colony and their residential houses as illegal, arbitrary, without authority of law and violation of Art. 14 and 21 of the Constitution of India and opposed to Public Policy and consequently direct the 1st respondent not to interfere in civil disputes and the rights of the petitioners in respect of their residential houses and further direct the 2nd respondent to restore the power supply immediately to the petitioners' residential houses and also street lights in the colony in Sy.No.13, Sairam Nagar Colony, Gandhipuram, Avilala Village, Tirupathi Rural Mandal, Chittoor District.”

Heard, Sri M. Ramalingeswara Reddy, learned counsel for the petitioners, learned Government Pleader for Home for respondent No.1, Smt.Jagarlamudi Koteswari Devi, learned Standing Counsel for respondent No.2 and Sri K.R. Prabhakar, learned Standing Counsel for respondent No.3.

When the matter is called, it is represented by learned Standing Counsel for 3rd respondent that the petitioners herein earlier filed W.P.No.2813 of 2011 before this Court. A copy of the said writ petition is placed on record and the relief sought in the said writ petition reads as under:

“to issue writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in interfering with the peaceful possession and enjoyment of the petitioner's residential houses as illegal, arbitrary, unlawful against the principles of natural justice and norms of Public Policy, violative of fundamental rights and consequently direct the respondents or any body claiming through them, not to interfere or demolish the petitioner's residential houses/structures in S.No.13, Gandhipuram, Avilala Gram Panchayat, Tirupahti Rural Mandal, Chittoor District.”

In fact, this Court closed the said writ petition along with another writ petition on 19-03-2015 and paragraph Nos.5 to 10 of the said order read as under:

“5. As per the learned counsel for impleaded respondent No.5-Hathiramji Mutt, vast extents of land in Survey No.13 belong to the Mutt and various antisocial elements are creating fake documents and approaching this Court by making allegations of interference by the Government authorities and obtaining orders of stay of dispossession; and thereafter they are making constructions; and a number of writ petitions filed by such people were dismissed by this Court. The learned counsel further submits that the petitioners have filed a

writ petition before this Court in the name of an Association and the Members List was also furnished to this Court.

6. *Learned Government Pleader, basing on the counter affidavit filed by the Tahsildar, submits that as per the Village accounts, the land admeasuring Ac.109-60 cents in Survey No.13 belongs to Hathiramjee Mutt and the said land is not a Government land.*

7. *The petitioners' counsel while reiterating the averments contained in the writ affidavits, denies filing of any writ petition in the name of Association, as contended by the 5th respondent.*

8. *As can be seen from the arguments, the claim of the petitioners is that they are purchasers of the land in their occupation from the original owners and while they are making constructions, the official respondents are interfering with their construction. To buttress the argument, the learned counsel relied on a sale deed executed in the year 1988 vide Document No.1631/1988 wherein there is some reference to various parties including Hathiramjee Mutt and also certain civil proceedings deciding the tenancy rights. In that view of the matter, the controversy with regard to the right, title and alleged possession of the petitioners need not be decided. So far as the construction that is being made in violation of the statutory provisions is concerned, no protection as such can be given by this Court in aid of the illegal activities. It is a matter which is required to be taken up by the 4th respondent-Gram Panchayat, and the Gram Panchayat is duty bound to take appropriate action if the petitioners make illegal constructions violating the statutory provisions.*

9. *In the light of categorical stand on affidavit by the Tahsildar, that the land is a private land belonging to the Hathiramjee Mutt and the respondent officials are not interfering in any manner, these writ petitions does not survive, and hence, no orders are required to be passed in these writ petitions.”*

10. *Accordingly, the writ petitions are closed. No costs. Miscellaneous petitions, if any pending, shall stand closed.”*

It is evident from the above material that the petitioners in the present writ petition sought the relief substantially in the earlier writ petition and the very basis for both these writ petitions is one and the same. Therefore, this Court is not inclined to entertain the present writ petition basing on the said foundation laid in the earlier writ petition.

Learned counsel for the petitioners submits that the petitioners herein may be given liberty to avail the appropriate remedies available to them, as per law.

In view of the above reasons, the writ petition stands dismissed. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SESA SAI, J

November 07, 2016

Pn

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



WRIT PETITION No.4577 of 2011

November 07, 2016