

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

PRESENT

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE P.NAVEEN RAO

-
WRIT APPEAL No.262 OF 2016

DATED: 09.06.2016

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Between:

S. Sudhakar Reddy

... Appellant

and

Greater Hyderabad Municipal Corporation and another

... Respondents

**THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE P. NAVEEN RAO**

WRIT APPEAL No.262 OF 2016

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PC: (per the Hon'ble The Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the parties.

This writ appeal is directed against order, dated 20.01.2016 passed in Writ Petition No.17830 of 2010 whereby the appellant's Writ Petition has been dismissed by learned Single Judge holding that no case is made out to invoke extraordinary jurisdiction under Article 226 of the Constitution of India.

The prayer made in the Writ Petition reads thus:

“Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ or any appropriate writ/s or direction more particularly in the nature of mandamus declaring the action of the respondents in trying dispossess the petitioner over the plots bearing No.1, 2, 49 to 57, 60 and 67 to 72 of Chitra Nagar situated at Sy.No;14, Anamagal, Sitaramapuram, Hayathnagar, R.R. District, is illegal, arbitrary and unconstitutional and consequently direct the respondent and it's official workmen not to interfere with the absolute possession of the petitioner over the plot

bearing No.1, 2, 49 to 57, 60 and 67 to 72 of Chitra Nagar situated at Sy.No.14, Anamagal, Sitaramapuram, Hayathnagar, R.R. District.”

From bare perusal of the prayer, it is clear that petitioner filed the Writ Petition under Article 226 of the Constitution of India for the relief of injunction simplicitor. Though such relief was sought, learned Single Judge has taken all trouble to go into merits of the case and in concluding paragraph, observed thus:

“.....Having regard to the fact that there is a serious dispute with regard to the right, title and interest over the property involved in the *l/s* and the further fact that the petitioner has come to the Court with unclean hands by suppressing the partition deeds and without impleading all the necessary parties, who are his family members and who are said to be having rights in the subject property, it follows that the petitioner is not entitled to the equitable relief, more particularly when the execution of the settlement deed executed in favour of GHMC is admitted by some of his family members in the partition deed, which is referred to *supra*.”

Mr. B. Vijaysen Reddy, learned counsel for appellant strenuously submitted that on the basis of a settlement document, the Corporation asserts its rights over the property in dispute and they are likely to disturb the petitioner's possession. According to the petitioner, the land was originally owned by his grandfather and it was given to third party for development. The third party, according to the petitioner, prepared a layout and sold the plots except the plots in question. These are all disputed

questions which the petitioner is raising in the instant Writ Petition. There is nothing on record to show that the petitioner is in possession of the plots in dispute. Moreover, the petitioner's family members do not support his case. It appears that there was a partition between the family members of the petitioner in which it seems he lost interest in the property. All these facts were suppressed by the petitioner, as observed by the learned Judge in the concluding paragraph. In any case, the petition raised several disputed questions of fact which learned Judge has rightly refused to examine in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. That apart a Writ Petition for injunction simplicitor under Article 226, more particularly, when possession of the petitioner is in dispute, is not maintainable.

Hence, Writ Appeal is dismissed.

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

9th JUNE, 2016.

P. NAVEEN RAO, J

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