

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.21359 of 2012

ORDER

This writ petition is filed seeking to declare the action of respondents 1 to 3 in not taking any action on the representations of the petitioner dated 22.5.2012 & 5.7.2012, as arbitrary and illegal.

It is the case of the petitioner that the 4th respondent, claiming to be the owner of house bearing No.12-2-693/1/A in T.S.No.89, Block-O, Ward No.21 of Gudimalkapur, Hyderabad, started construction of shops for commercial purpose by encroaching the temple premises in violation of GHMC rules, and caused damage to the compound wall of the temple. The petitioner made representation dated 22.5.2012 followed by another representation dated 5.7.2012 to respondents 1 to 3 to take action against the 4th respondent. In spite of the same, when no action was taken, the present writ petition was filed.

Learned counsel appearing on behalf of respondents 1 to 3, on instructions, submits that the 4th respondent obtained permission for construction of the building vide permission No.10243/DC/CZ/Cir-7/2012, for ground and first floor and completed the construction. But as per the complaint of the 4th respondent, the petitioner himself encroached the Government land and constructed a shop and the case was referred to the Tahsildar and the encroached portion was demolished.

A counter-affidavit is filed on behalf of the 4th respondent stating that father of the petitioner filed O.S.No.2965 of 1992 seeking perpetual injunction claiming the property in possession of the petitioner and the said suit was dismissed and hence, he filed A.S.No. 5 of 1997 on the file of III Additional Chief Judge, City Civil Court, Hyderabad, which was also dismissed on 31.3.2000. The father of the petitioner again filed O.S.No.2722 of 2006 against the 4th respondent on the file of IX Junior Civil Judge, City Civil Court, Hyderabad, for perpetual injunction, which was also dismissed on 4.3.2011 and hence he again filed O.S.No.1252 of 2012 on the file of V Senior Civil Judge, City Civil Court, Hyderabad, for mandatory injunction and for recovery of possession of an extent of 20 square yards from the 4th respondent. The said suit was also dismissed on 13.10.2016. In those circumstances only, the father of the petitioner got the present writ petition filed through his son making false allegations. It is further stated that when the 4th respondent approached the respondent-authorities for building permission, he came to know that the property purchased by him was shown as Government land in the records. He approached the revenue authorities by paying necessary charges. Later on, he obtained permission for construction of the building and constructed ground and first floors.

The allegation of the petitioner that the 4th respondent made construction by encroaching the public road and damaged the

compound wall of the temple was denied. The 4th respondent filed O.S.No.1695 of 2012 on the file of VI Junior Civil Judge, City Civil Court, Hyderabad, challenging the notices issued by the respondents under Section 452 (1) and 461 (1) GHMC Act dated 18.7.2012 and 23.7.2012 and the said suit was decreed.

In the light of the above facts and encroachment of Government land by the petitioner and the civil suits filed by the father of the petitioner against the 4th respondent, this Court sees, no bonafides in the present writ petition and the same is accordingly dismissed. However, this order will not prevent respondents 1 and 2 from taking action against any interference and illegal construction made by the 4th respondent, in accordance with law.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

8th November, 2016
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