

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.46142 OF 2016

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue. With their consent, the present writ petition is disposed of at the admission stage.

2. The present writ petition came to be filed seeking issuance of Writ of Mandamus, declaring the action of respondent No.2 in not considering the representation filed by the petitioner on 20.12.2016 and further to declare the action of respondent No.4 in interfering in the meeting conducted by petitioner's flat owners in respondent No.3 site as illegal and arbitrary and consequently direct respondent No.2 to consider the said representation; not to alienate the club house property in favour of any third parties for a built up area of 51,245 sq.ft. in Survey Nos.83,84,85, 86 and 87 situated at Hafeezpet Village, Serilingampally Mandal, Ranga Reddy District and direct respondent No.4 not to interfere with the petitioner's flat owners association while inspecting the flats for interior decoration".

3. Learned counsel for the petitioner mainly submits that the present writ petition came to be filed since the third and fourth respondents violated the terms as per their development agreement. It is contended that the third and fourth respondents are trying to alienate the club house property to third parties.

4. From the above it is clear that the grievance of the petitioner is against the builder and developer, who are shown as respondent Nos.3

and 4 in the writ petition but not against official respondents. In *V.S.T. Industries Limited Vs. V.S.T. Industries Workers Union*¹, the Apex Court held that no writ would lie against a private person or a private company which is not involved in discharge of any statutory or public duty. In *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust and others Vs. V.R.Rudani and others*², the Apex Court held that if the rights are purely of a private character, no mandamus can be issued. The learned counsel for the petitioner is not able to convince the Court with regard to maintainability of the writ petition wherein his grievance is against private individuals and there is no interference by respondent Nos.1 and 2. Such being the position and having regard to the judgments referred to above a writ petition would not lie under Article 226 of the Constitution of India.

5. In view of the above observations, I see no reason to entertain the writ petition and the same is liable to be dismissed.

6. Accordingly, the writ petition is dismissed giving liberty to the petitioner to avail the remedies available under law.

7. Consequently, Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:30.12.2016
vhb

¹ (2001) 1 SCC 298

² (1989) 2 SCC 691