THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.16147 of 2016

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ORDER:

Heard Sri M. Srikanth, learned counsel for the petitioner, and Sri S.D. Gowd, learned Standing Counsel for the Kurnool Municipal Corporation.

The prayer of the petitioner in this case is as under:

> "To issue a Writ, Order or Direction particularly one in the nature of Writ of Mandamus declaring that the action of the un-official Respondent Nos. 6 to 8 in raising constructions in Survey Nos. 123, 126 and 127 situated in Kurnool which is the property of the Petitioner's School is illegal, arbitrary and in contravention of Section 28 of Andhra Pradesh Education Act, 1982 and also declaring that the action of the Official Respondent Nos. 1 to 5 in not taking any action in spite of the Representation made by the Petitioner's School on 06.05.2016 against the illegal constructions being made by the unofficial Respondent Nos. 6 to 8 herein in Survey Nos. referred to is also illegal, arbitrary and in contravention of Section 28 of Andhra Pradesh Education Act, 1982 and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case."

Section 28 of the Andhra Pradesh Education Act, 1982 (for brevity 'the Act of 1982') reads as under:

> "Notwithstanding anything in any law for the time being in force, no sale, mortgage, lease, pledge, charge or transfer of possession in respect of any property of a (private institution other than a registered school) shall be made or created except with the previous permission in writing of the competent authority on an application made in this behalf."

The interpretation sought to be placed by the petitioner upon the afore-stated statutory provision is not borne out. The statutory prohibition would apply only in the event the institution by itself resorts to either sale, mortgage, lease, pledge, charge or transfer of possession of any of its properties.

In the present case, the claim of the petitioner is that the unofficial respondents are making constructions in the land owned by it. That being so, the cause in this writ petition is purely a private one and relates to the dispute between the petitioner and the unofficial respondents. The State or its authorities have no role to play in the matter in the context of Section 28 of the Act of 1982.

The writ petition is utterly misconceived and is accordingly dismissed. This order shall however not preclude the petitioner from availing appropriate remedies in accordance with law before the proper forum insofar as its grievance as against the unofficial respondents is concerned.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

Date:12.05.2016

GJ