

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

WRIT APPEAL No. 1088 OF 2015

07-06-2016

Between:

Shahi Zamia Mosque Committee, Rayachoty, through Managing Committee, rep., by its Secretary, Mr. Attar Azeez-ur-Rehman, S/o. Burhan Sahib, aged 42 years, r/o. D.No.63/30, Buddan Sab street, Tunk Road, Rayachoty, Y.S.R. Kadapa District

... Appellant

And

The Government Junior College Committee, Rayachoty, Cuddapah District, rep., by its President, S. Prabhakar Reddy, S/o. S. Anna Reddy, R/o. S.N. Colony, Rayachoty, Y.S.R. District and others

... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
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WRIT APPEAL No. 1088 OF 2015

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

This writ appeal is directed against the order dated 29-06-2015 passed in WPMP No. 41779 of 2013 in Writ Petition No. 22684 of 2009, whereby the miscellaneous petition filed by original respondent Nos.8 to 24, seeking permission of this Court to construct compound wall around the land measuring Acs.12.51 cents, was allowed in part for the reasons recorded therein. The operative portion of the order reads thus:

“In the circumstances, it is open to the petitioners to deposit the amount with the 4th respondent for the purpose of construction of compound wall covering the area where the educational institutions and the open area are situated and 4th respondent may take necessary steps for construction of compound wall in accordance with the Government orders. However, it is made clear that the construction of the compound wall does not create any right or title either in the petitioners or divests such right in the contesting respondents.”

Sri Sitarama Murthy, learned Senior Counsel for the appellants invited our attention to the report of the Tahsildar dated 13-03-2015 and the order dated 28-04-2015 passed by this Court in WPMP Nos. 3225 of 2011 and 41779 of 2013 to contend that compliance of the said order has not been made till today by the concerned respondents and that being so, they are not justified in seeking permission to

construct wall covering the land measuring Acs.12.51 cents.

On the other hand, learned Government Pleader invited our attention to the affidavit filed by concerned respondent in June 2015 showing compliance of the said order.

Having considered over all facts and circumstances of the case and reasons stated in the impugned order, we are not inclined to interfere with the same. It is not the case of appellants that they use the land in dispute on day to day basis or even occasionally. On the other hand, the case of the respondents is that the open land adjacent to the school and junior college building is used by private taxi owners for parking, by petty vendors and for dumping garbage. In this view of the matter, we confirm the order passed by learned single Judge.

Writ appeal is accordingly dismissed. However, we observe that the respondents shall construct the wall without prejudice to the rights and contentions of the appellants and that they shall not claim equities. In view of the peculiar facts and circumstances of the case, learned single Judge is requested to decide the writ petition, which is pending since 2009, expeditiously.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

P. NAVEEN RAO, J

07-06-2016

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