

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.1209 of 2016

ORDER:

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

“That this Hon'ble Court may be pleased to pass an order, direction or a writ particularly in the nature of Writ of Mandamus declaring that action on part of the respondents in attempting to raise a wall on the 40 feet road, at the eastern side of petitioners' properties, leading to Banjari Darwaza Main Road from Enclave Diamond Hills, Shaikpet, Hyderabad, is illegal, arbitrary, in violation of Article 300 A of the constitution and in violation of principles of natural justice and in violation of provisions of GHMC Act, and Police Manual. Consequently, this Hon'ble Court may be pleased to direct the respondents not to raise any structure on the 40 feet road, at the eastern side of petitioners' properties, leading to Banjari Darwaza Main Road from Enclave Diamond Hills, Shaikpet, Hyderabad, thereby depriving them of their only entrance road and pass any other order or orders as deemed fit and proper in the circumstance of the case in the interest of justice.”

By order dated 19.01.2016, this Court directed the Telangana Social Welfare Residential Educational Institutions Society, the third respondent, not to construct the wall on the 40 feet road situated on the eastern side of the petitioners' properties and leading to Banjari Darwaza Main Road from Enclave Diamond Hills, Shaikpet, Hyderabad.

The third respondent filed W.V.M.P.No.206 of 2016 to vacate the said order.

Sri N. Bhupal Reddy, learned Standing Counsel for the third respondent society, would assert that the subject land was acquired for the purpose of the third respondent society and that the petitioners cannot assert any rights over the land which lawfully vested in it.

He referred to the proceedings dated 30.01.2012 of the Secretary of the third respondent society addressed to the Special Deputy

Collector, Land Acquisition (General), Government of Andhra Pradesh, whereunder the third respondent society paid the necessary amount for acquisition of the property in its favour.

Learned Standing Counsel also referred to the order passed by this Court on 06.01.2016 in W.P.No.3478 of 2013 which was filed by the Diamond Hills Residents Welfare & Development Society. By the said order, this Court took note of the fact that the very existence of the road was in dispute and in the event any easementary rights were asserted, it is not for this Court to examine the same in a writ petition and accordingly vacated the interim order restraining the third respondent society from proceeding with the construction of the compound wall. This Court also took note of the fact that failure to construct such a compound wall would invariably have an adverse impact on the students studying in the residential school.

Sri Mohd. Adnan, learned counsel for the petitioners, would state that his clients have already addressed a notice under Section 80 C.P.C. to the respondent authorities.

In that view of the matter, it is for the petitioners to canvass their grievances before the proper forum. Recourse to a writ petition in the light of various disputed questions of fact is not warranted.

The writ petition is accordingly dismissed leaving it open to the petitioners to approach the appropriate forum in accordance with law for redressal of their grievances, if any.

Interim order dated 19.01.2016 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

21st March, 2016

Note:-

Issue CC by tomorrow.

B/o

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