

THE HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.38154 OF 2016

ORDER:

The writ petition is filed by the petitioner seeking a writ of mandamus declaring the action of the respondents 2 to 4 in not registering the crime against the respondents 5 to 8 as illegal and arbitrary, and consequently, to direct the respondents 2 to 4 to register the crime against the respondents 5 to 8 and investigate into the complaint dated 21.10.2016 lodged by the petitioner herein.

Heard and perused the material.

Learned counsel for the petitioner submits that though the petitioner lodged complaint, dated 21.10.2016, the respondents 2 to 4 are not registering the complaint against the respondents 5 to 8 and as such, he prays this Court to direct the respondents 2 to 4 to register the case against the respondents 5 to 8 and take action against them.

Learned Assistant Government Pleader for Home (Telangana) submits that the fourth respondent has filed the counter affidavit. He further submits that the investigation reveals that the allegations made in the complaint are found to be not correct and as such, there is no need to take any action on the complaint of the petitioner.

This Court is of the view that it is necessary to extract the relevant observations made in paragraphs 4 to 6 of the counter affidavit and the same reads as under.

"It is submitted that the petitioner herein has sent a petition dated 21.10.2016 along with a photo of the land to Malkajgiri Police Station by Post stating that he has purchased plot Nos.29 and 30 admeasuring 400 sq.yards land in survey No.844/20 at Venkateswara Nagar, Malkajgiri, Hyderabad. He applied for sanction for construction of house to the Malkajgiri Municipality. The authorities concerned conducted survey and

declared the said land as private property. He also made an application to the GHMC, however, GHMC is not giving permission. As such, he filed W.P.No.30346 of 2016 before the Hon'ble High Court and got favourable orders. The Hon'ble High Court also imposed fine of Rs.10,000/- on GHMC. However, Balaiah, Ashok and some others working in GHMC, Malkajgiri Circle are illegally and high-handedly interfering with his possession on the name of Venkateswara Nagar Association and have erected tents. They are trying to grab his land. He requested to take necessary action against Ashok, Balaiah, Ramakrishna and Tulasi. The petitioner also sent similar petition to the Commissioner of Police, Rachakonda by Post.

It is submitted that the Commissioner of Police vide Endt.No.420/Genl-pet/C3/Rachakonda/2016, dated 27.10.2016 forwarded the petitioner's complaint to the DCP, Malkajgiri Zone, and the same was received by the SHO, Malkajgiri PS on 03.11.2016 through the ACP, Malkajgiri Division for necessary action.

It is submitted that based on the above petition, a GD entry was made in the station records and further enquiry. The photo of the subject land sent by the petitioner along with his petition clearly shows that the said land is in possession of GHMC. During enquiry, it is revealed that the subject land belongs to GHMC. There was a compound wall around the said land. The said land is being utilised as Community Hall on the name of Jayashankar Memorial Community Hall. The enquiry further revealed that the petitioner has filed W.P.No.30346 of 2016 for not giving him building permission by the GHMC and the Hon'ble High Court by orders, dated 21.09.2016 directed the GHMC to issue building permission subject to compliance of the petitioner all formalities prescribed by the GHMC Act, 1955 and Rules permitted therein. The enquiry further revealed that the allegations made in the petitioner's complaint are found to be not correct. Hence, no further action was taken on the petitioner's complaint and he was also informed of the same. However, the petitioner filed present writ petition alleging that police have not taken any action on his complaint. It is submitted that the allegations made in the affidavit against the respondent police are not correct and hence denied. It is

submitted that there are no merits in the above writ petition and it is liable to be dismissed”.

The above statements of the counter affidavit clearly indicates that on receipt of the complaint, the fourth respondent conducted investigation and in the said investigation, it is revealed that the allegations made in the complaint that the respondents 5 to 8 are interfering with the petitioner's possession are not correct and as such, the fourth respondent has not registered the complaint of the petitioner herein. Hence, the writ petition is disposed of giving liberty to the petitioner to file a complaint under Section 200 of Code of Criminal Procedure, if he is aggrieved by the acts of the fourth respondent.

The writ petition is accordingly disposed of. Consequently, miscellaneous petitions, if any shall also stand disposed of.

14.11.2016
pln

JUSTICE RAJA ELANGO

