

HON'BLE SRI JUSTICE A.V. SSHA SAI

WRIT PETITION No. 3885 OF 2017

ORDER:

This writ petition is filed for the following relief:

“... to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the inaction of the respondents 2 to 5 more particularly respondent No.4 in preventing the illegal construction of the respondent No.6 in the land of the petitioners in Sy.No.1813 and 1814 by projecting as if he is making construction in the land in Sy.No.2332 of Yeldurthi Village and Mandal, Medak District, as illegal, arbitrary.”

Heard the learned counsel for the petitioners, learned Government Pleader for Panchayat Raj and Sri G.Narender Reddy, learned Standing counsel for respondent No.4 Gram Panchayat.

Admittedly, the petitioner instituted O.S.No.112 of 2015 against one Komirishetty Ramesh, 6th respondent herein. In the said suit, he also filed I.A.No.405 of 2015 under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure for temporary injunction against the 6th respondent.

Learned counsel for the petitioner submits that the Court of Junior Civil Judge, Medak, granted injunction and the same is still subsisting. He further submits that despite the said injunction order, the 6th respondent is proceeding with the construction.

Since the petitioner has already availed the common law remedy by way of instituting O.S.No.112 of 2015 and also got an injunction order from the civil Court, this Court is not inclined to entertain the present writ petition. However, it is open for the petitioner to avail the remedy under the provisions of Order XXXIX Rule 2, if there is any violation of the said injunction order by the 6th respondent.

With the above observation, the writ petition is disposed of.

Miscellaneous petitions, if any pending, shall also stand disposed.

No order as to costs.

A.V. SESA SAI, J

Date: 20.02.2017
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