

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 9428 of 2017

ORDER:

Heard the learned Counsel for the petitioner and Sri N.Praveen Kumar, learned Standing Counsel for respondent Nos.2 and 3.

The prayer in the Writ Petition is inaction of respondent No.3 in allowing respondent No.4 to make construction in the property of the petitioner in respect of which suit in O.S.NO.40 of 2016 is pending before the District Judge, Nizamabad.

In the writ affidavit, the petitioner states that O.S.No.40 of 2016 has been filed in the Court of District Judge, Nizamabad, seeking declaration of title over the subject property as against respondent Nos.5 and 6. The allegation in the Writ Petition is that respondent No.4, who is a private party, is about to make construction in the property in respect of which civil suit is pending.

Except making allegation that the subject property belongs to the petitioner and construction is about to be made by respondent No.4, the writ affidavit does not disclose whether any effort has been made by the petitioner either under the Right to Information Act or had approached the authorities concerned to ascertain whether respondent No.4 had been allotted the subject property for

making construction. Without obtaining necessary information, the petitioner filed the instant writ petition. In other words, what the petitioner expects is, this Court should enquire whether respondent No.4 had been allotted the subject property or not for making construction. As the petitioner has not exercised due diligence in ascertaining whether respondent No.4 has been allotted subject property or not, the Writ Petition is not maintainable. In as much as the dispute in relation to title with respect to subject property is pending, no mandamus can be granted without there being any *prima facie* material before this Court.

The Writ Petition is, accordingly, dismissed. However, it is left open to the petitioner to work out his remedies against respondent Nos.4, 5 and 6 in accordance with law.

Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

CHALLA KODANDA RAM,J

Date: 13.03.2017
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