

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 4604 of 2009

ORDER:

1) Heard learned counsel for the petitioners, Government Pleader for Revenue and Sri Mohd. Ghulam Rasool for Advocate-General.

2) The present writ petition came to be filed seeking issuance of writ of Certiorari calling for the records relating to proceedings No.B2/ 12966/ 2008 dated 23.12.2008 issued by the third respondent and quash the same as illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India; and consequently grant stay of all further proceedings pursuant to the proceedings No.B2/ 12966/ 2008 dated 23.12.2008.

3) It is urged in the writ petition that the Tahsildar has no power to adjudicate with regard to title of the properties which he intends to do by addressing the impugned letter to the Collector, Hyderabad.

4) On the other hand a counter came to be filed disputing the averments in the affidavit filed in support of the writ petition. It is their case that the impugned proceedings is only an internal communication between the Tahsildar and the Collector and since no action has been initiated basing on the said letter, the writ petition is premature.

5) A perusal of the material placed before the Court would show that the petitioners herein filed O.S.No.378 of 2008 before the XIII Additional Senior Civil Judge, City Civil Court, Secunderabad. In the said suit the petitioner also filed I.A.No.267 of 2008 seeking ad-interim temporary injunction restraining the Commissioner, G.H.M.C., from interfering with the petitioners' peaceful possession and construction. The trial Court granted interim order as prayed for. Pending the suit, respondent No.4 herein got herself impleaded through her G.P.A. Basing on the representation of respondent No.4, the impugned letter came to be written by the Tahsildar seeking instructions from the Collector. A reading of the impugned letter does not contemplate any action is sought to be taken against the petitioners. The last few sentences of the said letter are as under:

“The above all averments and allegation of the applicant has been enquired and verified the records it is found the said Sy.No.61/11 is recorded in the name of Nawab Luthfuddowla as per pahani 1979-80 and it is not covered in Town Survey and as per physical verification on Sri Laxmi Construction Private Limited as taken up multi storied residential complex and this office has asked him to produce the documents but he failed to produce documents. However, he is claiming this land as Sy.No.59. Therefore this office Mandal Surveyor has directed to localize the land and he submitted a report stating that the illegal constructions in Sy.No.61/11 but not in Sy.No.59 as claimed by the occupant to this effect he prepare a sketch showing the Sy.No.59 and 61/11.

Therefore, it is proved the present occupant is high handedly making construction in Sy.No.61/ 11 which is suit schedule property in C.S 14/ 58. In view of the above circumstances I request to issue necessary instruction to take further action.”

6) From a reading of the letter, it is clear that the Tahsildar sought certain instructions from the District Collector to take further action. In view of the stay granted by this Court on 05.03.2009 there was no further progress on the same. When the same was pointed out, the learned counsel for the petitioners would submit that if the Collector/ Tahsildar intend to take action basing on the said letter, the petitioners may be put on notice, to which the Government Pleader for Revenue did not raise any dispute.

7) Having regard to the above, the writ petition is disposed of directing the Collector/ Tahsildar to hear the petitioners, if they intend to take action basing on the impugned letter No.B2/ 12966/ 2008 dated 23.12.2008. There shall be no order as to costs.

8) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

25.01.2017
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