

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WP No.18793 OF 2017

ORDER ::

This writ petition is filed aggrieved by the action of the respondents in seeking to demolish the old compound wall, structures and shed in petitioners' property admeasuring 536 sq. yards, bearing H.No.13-2-360/3 and 13-2-360/3/A situated at Jali Hunuman Road, Hyderabad, without issuing any notice and contrary to the order dated 24-5-2017 passed in IA No.122 of 2017 in OS No.77 of 2017 by the Vacation Civil Judge , City Civil Court, Hyderabad, as being illegal, arbitrary, unconstitutional and against the principles of natural justice and consequently direct the respondents not to interfere with the petitioners' property in question.

2. Heard the learned counsel for the petitioners and the learned the standing counsel for respondents 1 to 3.

3. Learned counsel for the petitioners submitted that though the injunction order granted by the civil Court is operating, the respondents high handedly tried to demolish the compound wall of the house in question. On the other hand, learned standing counsel for the respondents submitted that writ petition is not maintainable as petitioners have already approached the civil Court by way of filing a suit being OS No.77 of 2017 for the same relief as the one sought in

this writ petition and the civil Court has granted injunction orders, which is subject matter of this writ petition.

4. It is to be seen that, time and again, this Court as well as Supreme Court have held that where the petitioner was himself taking advantage of the alternative legal remedy and actively pursuing it, he cannot, at the same time carry on two parallel proceedings, and the writ petition in such a case, should not be entertained. In this case petitioners have already invoked the jurisdiction of the civil Court by way of suit and on facts, got the protective relief. The prayer in the writ petition and the injunction suit being one and the same, this writ petition cannot be entertained. For these reasons, the writ petition is accordingly dismissed. It is needless to mention that when once injunction order is operating against the respondents, they are bound by the said order unless and until it is set aside or varied.

5. As sequel to the dismissal of the writ petition, miscellaneous petitions, if any pending in this case shall also stand dismissed. There shall be no order as to costs.

A. RAJASHEKER REDDY, J

Dated: 05-07-2017
NRG

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