

HON'BLE SRI JUSTICE S.V. BHATT
WRIT PETITION NO.35457/2017

ORDER:

Heard Mr. Gade Venkateswara Rao for Petitioners, the Assistant Government Pleader (Home) for respondents 1 to 5 and Mr.K.V.Raghuveer for respondent No.6 to 9; 11 & 12.

The Petitioner prays for mandamus declaring :

- (a) The action of respondent Nos. 4 and 5 in supporting harassment of respondent Nos.6, 12 during the construction activity undertaken by petitioner in terms of permit No.3/C1/05027/2017, dated 02.06.2017 as illegal and arbitrary.
- (b) Direct respondents herein not to interfere with the construction work of petitioners in terms of permit No.3/C1/05027/2017 dated 02.06.2017.
- (c) The respondents adhere to Ad-Interim Order in I.A.No.856/2017 in O.S.No.253/2017 on the file of Additional Junior Civil Judge , Malkajgiri, Ranga Reddy District.

2. On 25.10.2017, this Court ordered notice to respondent Nos.6 to 9 and 11 & 12 and they filed counter affidavit. The Assistant Government Pleader submitted written instructions received from respondents 4 and 5. The prayer, as already excerpted, is substantially converting the present Writ Petition into comprehensive suit for all reliefs. Admittedly, the petitioners herein and respondents 6 to 9 and 11 & 12 are parties in O.S.No.253/2017 on the file of Additional Junior Civil Judge Court, Malkajgiri and O.S.No.1422/2015 in the Court of Principal Senior Civil Judge, L.B.Nagar.

3. The Assistant Government Pleader submits that all four crimes are registered, one is against the petitioners and rest are against respondents 6 to 9 and 11 and 12 and these crimes are registered, the investigation, to

that extent alone, was undertaken. In view of the circular issued and also the jurisdiction limitations of respondents 2 to 5, respondents 4 and 5 are not interfering in civil disputes. The statement is placed on record.

4. Mr. Venkateshwar Rao, argued for considerable length of time to convince this Court on the right or entitlement of petitioners to undertake construction at subject matter of writ petition, and undertake to demolish the structure, in the event the writ petitioners herein are unsuccessful.

5. Mr. Raghuveer opposes the request of Mr. Venkateshwara Rao, for any observation influence the issues which are sub judice in the suits filed by the both parties. In the opinion of this Court, he rightly contends that the submission now made cannot be considered in isolation of other requirements of law, namely, prima facie case, origin of title, balance of convenience etc. and it should be left open for the Trial Court to consider in pending suits..

6. On the above analysis, this Court is of the considered view that the Writ Prayer is misconceived and the statement of respondents 4 and 5 as stated above, is placed on record and the Writ Petition is dismissed accordingly. No order as to costs.

7. Miscellaneous Applications, if any, shall stand closed.

S.V. BHATT,J

Dated: 29th November, 2017
JR