

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.36990 of 2017

ORDER:

The petitioner prays for *mandamus* declaring the action of the respondents in interfering in civil dispute of land covered by house bearing No.1-10-72/5/1 in Sy.No.28/1 and 28/2 in an extent of Ac.2-27 gts of Chikoti Garden, Begumpet, Hyderabad, as illegal and unconstitutional.

The petitioner claims to be in possession and enjoyment of the subject matter of the writ petition. The writ affidavit on the alleged interference by respondents reads as follows:

“It is submitted that the land in Sy.No.28/1 and 28/2 admeasuring Ac.2-27 gts situated at Chikoti Garden, Begumpet, Hyderabad is the ancestral property of the petitioner i.e., his grand father Hazaratullah who was the pattadar of the said lands. The said property is in common occupation of my brother who is representing all the joint owners in various Civil & Criminal cases and has devoted all his life to protect the said property from illegal encroachments. I am herewith enclosing various documents to prove the right, title and interest in the said property.

That One so called M/s/Viraj Constructions with an illegal intention to grab ancestral property of my grandfather has been making various attempts to grab the property with false, fabricated and frivolous documents. It is submitted that some unknown persons are threatening our watchman with dire consequences.

It is submitted that the respondent No.4 under the alleged directions of respondents No.2 & 3 has been visiting our land and interfering with peaceful possession of our family members and our watch men under the influence of respondent No.5 who is

having illegal claims over the property. I have given a written representation to the 2nd respondent dated 25.10.2017 and inspite of the same the respondents No.3 and 4 are continuously presenting us from peaceful occupation and day to day activities. The action of the respondents is illegal arbitrary.

The action of the respondents in involving and interfering in the civil matter, and calling the petitioners every time to the police station is arbitrary and illegal and violative of fundamental rights of the petitioner. The petitioner therefore has no other alternative but to approach this Hon'ble Court."

The petitioner further relies on representation dated 25.10.2017 made to the Deputy Commissioner of Police-2nd respondent on the alleged interference in civil dispute by respondent No.5

Perused the record and this Court is of the view that the petitioner, if possesses, right title and ownership to a sizeable extent of Ac.2-27 gts in Sy.Nos.28/1 and 28/2 firstly perceives interference either independently by 5th respondent or interference by 4th respondent, at the instance of 5th respondent. The same again is a pure and simple civil dispute. The petitioner can, not only file a suit for preventive relief but also protect the subject land by taking appropriate directions from the competent Civil Court. Further, issuing directions on the apprehension voiced with feeble tenor, for all practical purposes would be converting the remedy under

Article 226 as a substitute for suit, injunction, recovery of possession, prohibitory order etc.

Counsel for the petitioner places reliance on the order of this Court in W.P.No.29012 of 2014 and submits that in similar circumstances, this Court has considered and directed the respondents 1 to 3 therein not to interfere in the civil dispute.

I have perused the order and for the reasons I have expressed above, I am not persuaded to follow the order relied on by the petitioner and grant same relief. The petitioner, if has cause of action or perceives threat to his right with the 5th respondent etc., the same has to be worked out in core competent Court.

Writ Petition is accordingly dismissed. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 06.11.2017
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