

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.7005 of 2013

ORDER:

This writ petition is filed to direct the respondents 1 and 2 to take action to remove illegal construction and encroachment abutting to flat No.101 in the ground floor and bounded as North: open to sky, South: Staircases and lift, East: Open to sky and West: Flat No.102 in the apartment complex called Uma Park Side Apartment situated at 8-2-468/1/2, Road No.5, Banjara Hills, Hyderabad, made by the 3rd respondent.

The case of the petitioner is that the petitioner entered into Registered Development Agreement-cum-Power of Attorney vide Document No.4034 of 2004 with the 4th respondent; dispute arose between the petitioner and the 4th respondent and an Arbitration application was filed before this Court to appoint three member Arbitrators for the settlement of the disputes; settlement was entered between the petitioner and the 4th respondent and the same was filed before the Arbitrators; the Arbitrators passed an award on the said settlement agreement dated 9.2.2011 and thereafter the 4th respondent made construction and handed over the possession of the share fallen to the petitioner, and the 4th respondent has sold his share to the third parties; third parties, who purchased the share fallen to the 4th respondent, formed an association by name "Uma Park Side Apartment Flat Owners Welfare Association" i.e. 5th respondent; the 3rd respondent is one of the recently purchased owner of the flat No.101 which was sold by the 4th respondent; the 3rd respondent has encroached the common area towards North and

East side of flat No.101 and constructed a permanent structure by raising a temporary room with asbestos sheets and grills in spite of objection from the petitioner; as per the 3rd respondent sale deed and the plan annexed thereto, he is the owner of flat No.101 in the ground floor to an extent of 2227 sq.feet.; the 3rd respondent in collusion with the 4th respondent and 5th respondent encroached the common area towards North and East side of his flat No.101 and constructed a wall which is contrary to the settlement entered by the 4th respondent and the petitioner.

The allegation against the 3rd respondent is that he encroached the common area towards north and east side of his flat No.101 and constructed a wall which is contrary to his entitlement as per the sale deed and as per the settlement entered by the 4th respondent and the petitioner and as disputed questions of law were involved, the petitioner is at liberty to avail the remedies which are available to him, under law.

Accordingly, the Writ Petition is dismissed. No order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date: 13/12/2018

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