

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**WRIT PETITION No.8828 of 2017**

**ORDER:**

Heard learned counsel for the petitioner and learned counsel for respondents 2 and 4.

2. The petitioner states that he is the absolute owner and possessor of land to an extent of Ac.7.04 guntas in Survey No.101, apart from other lands situated in Survey Nos.321, 322, 334, 339, 300, 301, 302, 136, 404, 405, which is allotted to his share in the family partition. The 4<sup>th</sup> respondent is also a coparcener, who was allotted an extent Ac.6.06 guntas of land in Survey No.16 of Mamnoor Village, Hanamkonda Mandal, Warangal District. Out of the extent of Ac.7.09 guntas of land, the petitioner sold Ac.1.22 guntas of land to one Y.Rama Rao and he constructed a godown in the said land. Now, the petitioner states that he is in possession of remaining land in Survey No.101/A, and he constructed a residential house, even before partition in the year 1991. He is cultivating the remaining land in Survey No.101 by raising paddy crop. While so, the sister of the petitioner filed O.S.No.59 of 2011 on the file of IV Additional District Judge, Warangal, against the 4<sup>th</sup> respondent and other family members seeking partition and separate possession. The land situated in Survey No.101 was shown as Item No.3 of plaint A Schedule property and the 4<sup>th</sup> respondent herein was arrayed 1<sup>st</sup> defendant in the said suit. The said suit is pending and the petitioner filed written statement. The 4<sup>th</sup> respondent also filed O.S.No.542 of 2015 on the file of II Additional Senior Civil Judge, Warangal, against the petitioner herein seeking decree of permanent injunction in respect of land

situated in Survey No.101. He also filed I.A.No.986 of 2015 and obtained *ex parte* injunction on 04.11.2015. When the 4<sup>th</sup> respondent and his wife started digging trenches and fixing iron rods for raising pillars on 26.02.2017 to the agriculture land and the cattle shed in Survey No.101, the petitioner lodged a complaint on 04.03.2017 to respondents 2 and 3 for stopping unauthorized and illegal constructions made by the 4<sup>th</sup> respondent. He also filed I.A.No.168 of 2017 in O.S.No.542 of 2015 seeking to set aside the *ex parte* interim order. The trial Court, after hearing both sides, passed an order on 03.03.2017 granting *status quo* till 07.03.2017 and the same is being extended from time to time. When the 4<sup>th</sup> respondent was going ahead with the construction, without obtaining any permission and, when no action was taken by respondents 2 and 3, the present Writ Petition.

3. Learned counsel appearing for the 2<sup>nd</sup> respondent, on oral instructions, submitted that appropriate notice was issued to the 4<sup>th</sup> respondent. But, learned counsel appearing for the 4<sup>th</sup> respondent submitted that the 4<sup>th</sup> respondent is in United States of America and it is not possible to serve notice on him.

4. Learned counsel for the petitioner submitted that the wife of the 4<sup>th</sup> respondent is in possession of the property and appropriate notice can be given to the wife of the 4<sup>th</sup> respondent.

5. In the circumstances, without going into the merits of the case, respondents 2 and 4 are directed to inspect the disputed possession of the property situated in Survey No.101 and if they find any unauthorized construction, they shall take action in

accordance with law by issuing notice to the wife of 4<sup>th</sup> respondent, who is available in the property, and also on hearing the petitioner.

6. With the above direction, the Writ Petition is disposed of. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

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**A.RAMALINGESWARA RAO, J**

**APRIL 16, 2018**  
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**Date: 16.04.2018**

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