

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.27171 of 2018

ORDER :

Heard the counsel for petitioner, the learned Government Pleader for Panchayat Raj, for respondent nos.1 and 2, the learned Government Pleader for Revenue for respondent nos.3 and 4, and Sri K.K. Durga Prasad, counsel for 5th respondent.

2. The petitioner herein assails the action of respondents in highhandedly and illegally demolishing part of the property claimed by petitioner without following due process of law.

3. Admittedly, the petitioner has approached the II Additional Junior Civil Judge, Tadepalligudem by filing O.S.No.49 of 2018 for a perpetual injunction restraining respondent nos.3 to 5 herein from interfering with his possession and enjoyment of the same. He also filed I.A.No.231 of 2018 therein under Order XXXIX Rules 1 and 2 C.P.C.

4. After enquiry, the said application was dismissed on 28.06.2018 by giving a finding that petitioner could not prove his *prima facie* possession of the subject property, and so he was not entitled for grant of temporary injunction.

5. Thereafter, the petitioner preferred CMA.(SR).No.3302 of 2018 before the Senior Civil Judge, Tadepalligudem.

6. Since the relief claimed in this Writ Petition is covered by relief claimed in the suit, and petitioner cannot be simultaneously permitted to pursue two different remedies in two different Forums in respect to the same cause of action. So I am not inclined to admit the Writ Petition.

7. Accordingly, the Writ Petition fails and it is dismissed granting liberty to the petitioner to pursue the said Civil Suit and CMA.(SR).No.3302 of 2018, referred to above. No order as to costs.

8. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08.08.2018

Ndr/*

