

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No. 304 of 2014

ORDER:

This writ petition is filed to declare the action of the respondent Nos. 1 to 4 in not considering the representation dated 20.4.2013 of the petitioner for removal of the unauthorized compound wall constructed by the respondent Nos. 5 and 6 herein closing the 30 feet wide CC road situated at 6th Ward Venkannakunta, Jangaon Town, Warangal District, as illegal and arbitrary.

The case of the petitioners is that he is the absolute owner and possessor of the house bearing No. 4-6-35/3 situated at 6th Ward, Venkannakunta, Jangaon Town, Warangal District; and that there is a 30 feet road in the said locality and respondent No.2 also laid CC Road on the existing 30 feet road; respondent Nos. 5 and 6 illegally and highhandedly tried to close the said 30 feet road causing obstruction to the locality people; the petitioner submitted a representation on 03.04.2012 to the respondent No.2 to take action against the unofficial respondents 5 and 6; taking advantage of the inaction of the respondent No.2, respondent Nos. 5 and 6 have unauthorizedly constructed the compound wall blocking the CC road and damaged the drinking water pipe lines. Hence, the writ petition.

Counter affidavit has been filed on behalf of the respondents 5 and 6 stating *inter alia* that there is no 30 feet road in Venkanna Kunta area for the last 4 decades and that the writ petition is filed by suppressing several crucial facts; respondent No.5 filed O.S.No.26 of 2010 against the respondent No.2 seeking

declaration of title and recovery of damages with respect to the property in question, on the file of the Senior Civil Judge, Jangaon; the said Suit was decreed on 01-03-2011 declaring the respondent No.5 as the absolute owner of the suit schedule property therein and that the respondent No.5 is entitled for recovery of possession from respondent No.2 after removal of road structures and the said decree has become final; respondent No.5 herein filed E.P.No.13 of 2011 and on 23.2.2012 a warrant was issued to hand over the possession of the property and the unofficial respondents were put in possession by the bailiff appointed by the Court and a report dated 16.3.2012 was also submitted evidencing the same; that the petitioner was interfering with the possession of respondents and that the respondents have lodged a complaint before the Station House Officer, Jangaon Police Station on 11.5.2012; the unofficial respondent Nos. 5 and 6 have not occupied or encroached any land belonging to the respondent No.2; respondents 5 and 6 have obtained permission from the respondent No.2 and constructed rooms on the land; they have been paying property tax, all other taxes, electricity and water charges regularly since then and copies of the concerned bills and receipts have been produced from the year 2016 onwards as material papers along with the counter.

Counter affidavit is also filed by the respondent No.2 *inter alia* stating that the unofficial respondents 5 and 6 have obtained permission for construction of the compound wall in Plot No.4-6-84/3/2 and that there is no master plan of road of Jangaon Municipality at 6th ward of Venkannakunta, Jangaon Town and therefore, the question of closing of 30 feet road at 6th ward does

not arise; on 3.4.2012, the petitioner and others have submitted a representation to take action against respondent No.6, and since respondent No.6 has taken the building permission to construct the house and compound wall as per the sanctioned plan and no action whatsoever has been taken against them; the writ petitioner along with others filed O.S.No.76 of 2012 on the file of the Senior Civil Judge, Jangaon seeking permanent injunction against respondent Nos. 5 and 6 and the same was dismissed for default *vide* order dated 27.6.2013 and that the writ petitioner has suppressed all these facts in the writ petition; the unofficial respondents 5 and 6 have not occupied or encroached any land belonging to the respondent No.2; respondents 5 and 6 have obtained permission from the respondent No.2 and constructed rooms on the land; they have been paying property tax, all other taxes, electricity and water charges regularly since then and copies of the concerned bills and receipts have been produced from the year 2016 onwards as material papers along with the counter.

No reply affidavit has been filed denying the averments of the counter affidavit.

As seen from the affidavit filed in support of the writ petition, the filing of the Suits has been suppressed. It is seen from the counter affidavit filed by respondent No.2 and also counter affidavit filed by the unofficial respondents 5 and 6 that respondent No.2 has sanctioned permission for construction of the house and compound wall to the respondent No.6 and the said house and compound wall were constructed after obtaining the permission as per sanctioned plan and as seen from the counter affidavit of the respondent No.2, there is no 30 feet wide CC road in

the sanctioned master plan of the 2nd respondent in the 6th ward and hence, the question of closing of the said 30 feet road does not arise at all.

In view of the same, the writ petition is dismissed as no further orders are necessary. No order as to costs.

Miscellaneous petitions pending if any, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date:10/12/2018

Slk



HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI



WRIT PETITION No. 304 of 2014

Dated: 10/12/2018

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