

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 34548 of 2018

Date : 22.10.2018

Between:

Rudharaju Pullam Raju S/o Late Rama Raju
Aged about 72 years C/o R Bala Subba Raju Q No 211/A
Sector08 Steel City Ukkunagaram Visakhapatnam AP530032
Petitioner

And

The State of Andhra Pradesh
Rep by its Principal Secretary Panchayat Raj Department A p
Secretariat Velagapudi Amaravathi Guntur Dist & others
Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner and learned Government Pleader and learned standing counsel for 5th respondent and with their consent the writ petition is taken up for disposal at the admission stage.

2. According to petitioner, house bearing No. 1-61 in First ward Gram Panchayat, Garagaparru village, Palakoderu mandal, West Godavari district is a joint family property. Petitioner filed O.S.No. 137 of 2014 on the file of the Court of Senior Civil Judge, Bheemavaram praying to grant decree of partition. While so, petitioner alleges that his brother illegally undertaking construction of building without his consent and even before the said property is partitioned.

3. According to petitioner, the resolution passed by the Gram Panchayat dated 4.12.2014 would disclose that no building permission was obtained by his brother and that construction is illegal.

4. The facts on record would disclose that on the subject property on which petitioner sets up claim as joint family property, praying to grant decree of partition, petitioner filed O.S. No. 137 of 2014 in the Court of the Senior Civil Judge, Bheemavaram and same is pending consideration. Affidavit do not disclose as to whether any application is made before the trial Court praying to grant appropriate interlocutory relief. Since the claim for partition is pending, no opinion can be expressed. Even according to petitioner and the resolution relied upon by petitioner, would show that construction activity was going on in the year 2014 itself. Further, even according to admission of the petitioner, it is a joint family property of petitioner and Sri Treenadha Raju but petitioner has not made Sri Treenadha Raju as party to this

writ petition though seeks declaration against him alleging construction made by him without obtaining permission.

5. Having regard to the fact that civil dispute is pending and issue relates to commencement of construction in the year 2014 and that party against whom grievance is made is not a party, Court is not inclined to entertain the writ petition. Accordingly the writ petition is dismissed, leaving it open to the petitioner to work out his remedies in the pending suit. No costs. Miscellaneous petitions, if any pending, are closed.

DATE: 22-10-2018
TVK

P NAVEEN RAO,J



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