

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.38398 OF 2017

ORDER:

Heard learned counsel for the petitioner and the learned senior counsel for the respondents 5 to 14.

It is the case of the petitioner that it was established in the year 2017 and was registered as a Society on 15.03.2017. The Society was formed for the benefit of the residents of the 'Maple Homes', which is a gated community. The approval for layout of the gated community was granted on 28.05.2015. The houses were constructed in an extent of Acs.16.00 guntas of land spread over in Survey Nos.366, 367, 368, 390, 391, 392, 396, 397, 398 and 399. The said extent was plotted into 142 separate plots along with open layouts, approach road, underground drainage system, club house and other amenities like swimming pool etc. The land is bounded by the land in Survey No.370 and there is a dispute with regard to the compound wall between the owners of the land in Survey No.370 and 'Maple Homes'. While so, the fourth respondent issued a notice on 04.10.2017 for demolition of the compound wall between plot Nos.92 and 97, 98 and 104, 105 and 114. The petitioner submitted a reply on 09.10.2017 and on considering the said reply, the fourth respondent again issued another notice on 16.10.2017 holding that the reply furnished by the petitioner was not satisfactory and the construction company was asked to voluntarily remove the compound wall construction on 30 feet width road within twenty four hours. Challenging the same, the present writ petition is filed.

Now the neighbouring land owners in Survey No.370 got impleaded in the present writ petition and filed a petition seeking vacation of the order passed by this Court on 15.11.2017.

The enquiry with regard to the existence of the pathway between the land of the petitioner and the land of the impleaded respondents has to be decided based on the records and investigation into the facts. This Court does not want to undertake such investigation, but since both the disputed owners are before this Court, this Court feels that the dispute can be resolved by the competent authority, which has the custody of the records.

In the circumstances, the respondents 3 and 4 are directed to hear the petitioner as well as the respondents 5 to 14 and based on the records available with them, pass appropriate order with regard to the existence of the pathway and the rights over the said pathway as per the building permits and layout permits already granted, within a period of three months. Till the order is passed by the competent authority, the existing structure shall not be demolished. It is made clear that if any pending litigation is there, the parties shall be informed of the same and the orders, that can be passed, shall be subject to the orders in the pending litigation, if any.

The writ petition is accordingly disposed of with the above directions. Consequently, miscellaneous petitions, if any pending, in the writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

23.04.2018
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