

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.41253 of 2018

O R D E R:

This writ petition is filed challenging the action of the respondents 2 to 4 in trying to dispossess the petitioners from their land in Sy.No.47/3 to an extent of Ac.1.45 cents, situated at Thimmapuram (Village) Hamlet of T.Jaggampeta Revenue Village.

Admittedly, suit filed by the petitioner in OS.No.153/2006 in respect of subject property is dismissed on 23.02.2017 and the appeal filed by the petitioner against the said suit in AS.No.9/2017 along with interim application in IA.No.84/2018 for grant of injunction, is pending. Again the petitioner filed the present writ petition.

Learned counsel for the petitioner submits that initially pending suit the trial Court after considering the merits of the case granted interim injunction, but, unfortunately the suit is dismissed and that though first appeal is filed, unfortunately, no injunction was granted in the said appeal. He also submits that inspite of dismissal of suit, respondents cannot take possession of the subject property.

On the other hand, learned counsel for the 3rd respondent filed counter stating that suit filed by the petitioner referred to above is dismissed and in the first appeal no interim injunction was granted. He also submits

that when petitioner has availed alternate remedy of first appeal, again he cannot file present writ petition.

In this case it is to be seen that having filed suit and lost the same and having availed alternate remedy of filing first appeal along with interim application, which are pending, again the petitioner cannot file present writ petition. He cannot pursue two parallel remedies simultaneously as rightly contended by the learned counsel for the 3rd respondent. The decisions relied on by the learned counsel for the petitioner, are not applicable to the facts of the present case.

In view of the aforesaid facts and circumstances, this Court is not inclined to entertain the writ petition and accordingly the writ petition is dismissed. However, it is open for the petitioner to pursue injunction petition in the first appeal. No order as to costs.

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

A.RAJASHEKER REDDY, J

03.12.2018
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