

HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.4215 OF 2019

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased it is therefore prayed that this Hon’ble Court may be pleased to issue writ order or direction more particularly one in the nature Writ of ‘Mandamus’ declaring the action of the Respondent Nos. 1 and 2 in not acting pursuant to the complaints/representations made by the Petitioner against the illegal, unauthorized construction made by the respondent nos. 3 & 4, in the Plot No. 6, Road No. 5, Thirmurthy Colony, Mahendra Hills, Secunderabad encroaching the common area as illegal, arbitrary, unjust and unreasonable and contrary to Article 14 of the Constitution of India and consequently direct the Respondent Nos. 1 & 2 to take action against illegal construction made without the permission of the Cantonment Laws made by the Respondent Nos. 3 & 4 and further direct the Respondent Nos. 1 & to demolish illegal constructions made by the Respondent Nos. 3 & 4 in respect of Plot No. 6, Road No. 5, Thirmurthy Colony, Mahendra Hills, Secunderabad, duly considering the complaints/representations of the petitioner dated: 27-12-2017 complaint no. 1167 by hand and on 25-07-2018 & 03-09-2018 by telephonic complaint vide no. 108725000018 & 180903000015 and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case and to pass such other order or orders as this Hon’ble Court may deems fit just and proper in the circumstances of the case.”

2. Heard Sri D.Ramakrishna, learned counsel appearing for the petitioner and Sri K.R.Koteswara Rao, learned Standing Counsel for Secunderabad Cantonment Board appearing for respondents 1 & 2.

3. The case of the petitioner is that the petitioner along with his four brothers purchased part of Plot No.6, situated in Road No.6, Thirmurthy Colony, Mahendra Hills, Secunderabad, from Threemoorthy Weaker Sections Co-operative Housing Society through a registered Sale Deed *vide* Document No.296/78 and are in joint

possession of the said property and they have obtained permission for construction of residential house to the extent of only ground floor from the Cantonment Board and erected structures. Meanwhile, one of the brothers of the petitioner filed O.S.No.36 of 2003 seeking partition and the same was decreed *ex parte, vide* order, dated 03.10.2009. It is further case of the petitioner that the subject property was not partitioned by metes and bounds and in accordance with law, but respondents 3 & 4 have illegally constructed 2nd and 3rd floors without following the norms and conditions of the Cantonment Board.

4. The main grievance of the petitioner is that he has made several telephonic complaints and also submitted a representation to the official respondents, dated 27.12.2017, requesting them to stop and remove the illegal constructions alleged to have been made by respondents 3 & 4, but so far the same is not being considered and disposed of by the official respondents.

5. Sri K.R.Koteswara Rao, learned Standing Counsel appearing for respondents 1 & 2 submits that the unauthorised constructions, upon the intervention of the Secunderabad Cantonment Board, have been removed and the cause of action in the present writ petition do not survive and the writ petition is liable to be dismissed.

6. In view of the same, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any pending, shall stand closed.

T.AMARNATH GOUD, J

Date: 26th April, 2019
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