

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 4416 OF 2019

ORDER :

The case of the petitioner is that petitioner owns land to an extent of 0.13 ¼ guntas, situated in Survey No.673/1 at Nandipet Village and Mandal of Nizamabad District, which is his ancestral property. While so, the 5th respondent, though not having any right over the said property, is trying to construct a house in the said land without approval of the layout and permission from the 4th respondent. As such, the petitioner filed representation dt.04.02.2019 to the 4th respondent requesting not to allow any construction by the 5th respondent who has neither approved layout nor permission from the 4th respondent. On such representation the 4th respondent addressed a letter to the concerned SHO to give police protection for removal of unauthorized construction of the 5th respondent. In spite of the same, the 5th respondent is proceeding with the construction without any title or permission. Aggrieved by the action of 4th respondent in allowing illegal construction of 5th respondent, without permission, in Survey no.673/1 of Nandipet Village and Mandal, present writ petition is filed.

Counter is filed by the 5th respondent stating that he is the absolute owner and possessor of the land in Survey No.674/2/A/2, admeasuring Ac.0.08 guntas, situated at Nandipet Village and Mandal, having inherited from his mother. It is also stated that initially 5th respondent's mother made small construction of a hut for their living and later the 5th respondent made an application to the Gram Panchayat, Nandipet on 26.01.2019 by paying

requisite fee to the Gram Panchayat and was also granted permission vide proceedings dt.31.01.2019 with house No.3-59/2/6/A.

It is specifically stated that the 5th respondent is making construction in Survey No.674 and he is not making any construction in petitioner's land i.e. in Survey No.673/1. Petitioner also made a representation to the District Panchayat Officer to clarify as to where the 5th respondent is making construction and on such representation the District Panchayat Officer also addressed letter to the Mandal Extension Officer to submit a report and the Mandal Extension Officer submitted a report dt.01.07.2019 to the District Panchayat Officer, categorically stating that the land in Survey No.673/1 has no connection with the land in Survey no.674/2 where 5th respondent herein is making construction with H.No.3-59/2/6/A. It is also stated that the 5th respondent is also having electricity service connection in respect of his land which was obtained by his mother when she constructed the tin shed hut.

Reply affidavit is filed by the petitioner reiterating the submissions apart from stating that the land assigned to the 5th respondent was sold by the 5th respondent, as such, he cannot be granted building permission as alleged by the 5th respondent in the counter affidavit.

Heard learned counsel for the petitioner who submits that though 4th respondent addressed a letter dt.04.02.2019 to the Sub-Inspector of Police, Nandipet for grant of police protection in respect of illegal construction made by the 5th respondent, it is not known on what basis, the 5th respondent filed counter stating that he was granted building permission on 31.01.2019.

He also submits that the 5th respondent sold away all his land, as such, question of granting permission to the 5th respondent does not arise.

Heard Sri G.Narender Reddy, learned Standing Counsel for respondents 3 and 4-Gram Panchayat as well as counsel for the 5th respondent who submits that the representation made by the 5th respondent was enquired into and found that the 5th respondent is undertaking construction in Survey No.674, but not in Survey No.673 as alleged by the petitioner and permission was also granted to the 5th respondent on 31.01.2019, in respect of land not in Sy.No.674/2.

In this case it is to be seen that the petitioner claims land in Survey No.673, whereas the 5th respondent is claiming land in Sy.No.674 and on the representation of the petitioner enquiry was also conducted and report is submitted stating that the 5th respondent is undertaking construction in Sy.No.674, but not in Sy.No.673. Counter of 5th respondent also asserts the same. But, petitioner disputes the same.

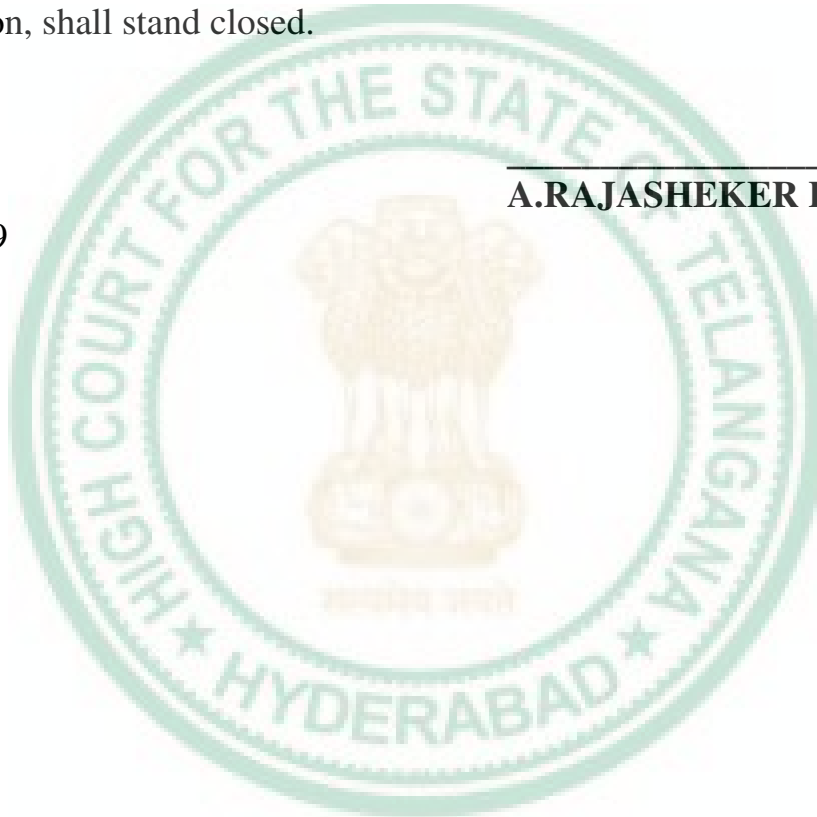
Admittedly, inspite of filing counter along with building permission dt.31.01.2019, the same is not challenged. In view of the same, these disputed questions of fact cannot be gone into the writ petition, when the petitioner has alternate efficacious remedy of challenging the building permission dt.31.01.2019. Even otherwise, the petitioner can avail the remedy by filing civil suit since it appears to be civil dispute between the petitioner and 5th respondent. As such, I am not inclined to entertain the writ petition.

Accordingly, the writ petition is disposed of granting liberty to the petitioner to avail remedy as may be available to him under law. Any observations made above are made only for the purpose of disposing this writ petition alone. The appellate authority or the Civil Court shall decide the cases, if any filed by the parties herein, without being influenced by the observations made by this Court in this writ petition. No order as to costs.

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

28.10.2019
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A.RAJASHEKER REDDY, J



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