

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 7253 of 2019

ORDER:

The petitioners claim to be the owners of Ac.4-00 guntas in Survey Nos.81 and 82 of Boduppall Village, Ghatkesar Mandal, Ranga Reddy District, on the strength of a sale deed Document No.13692 of 2006 dated 16.09.2006. It is their grievance that though they submitted representations to the respondent authorities on 23.01.2019 and also on 02.04.2019 bringing to their notice the illegal construction being made by unofficial respondents 6 to 8 and some others in the subject land, no action is initiated by the respondent authorities to stop the illegality.

2. Heard Sri VVN Narayana Rao, learned counsel for the petitioners; Sri N. Praveen Kumar, learned Standing Counsel for Respondents 3 and 4; learned Government Pleader for Revenue and the learned Government Pleader for Home.

3. A perusal of the writ affidavit and the material papers filed along with it would show that the husband of the 1st petitioner filed a suit against his vendors in O.S.No.678 of 2004 on the file of Principal Junior Civil Judge, Ranga Reddy District, and the suit was decreed in favour of the plaintiffs. On account of the failure of the defendants to register the Sale Deed, the Court had executed the registered sale deed in favour of the husband of the 1st petitioner, and the judgment in O.S.No.678 of 2004 has become final. However, during the lifetime of the husband of 1st petitioner, the unofficial respondents including some others, have filed a suit for perpetual injunction in O.S.No.1928 of 2011 on the file of II Additional Senior Civil Judge, Ranga Reddy District, claiming that they have purchased plots in the subject property from the vendors of the husband of the 1st petitioner, and the

petition filed for ad-interim injunction in the said suit was dismissed by the trial Court vide order dated 14.11.2011. It is stated that the husband of the 1st petitioner filed O.S.No.1075 of 2014 on the file of I Additional District Judge, Ranga Reddy District, against the unofficial respondents and also others, seeking declaration of suit along with declaring the alleged registered sale deeds produced by the unofficial respondents and others with respect to their claim, as null and void, and the trial Court passed interim injunction orders in favour of the husband of the 1st petitioner on 25.09.2014. It is alleged that after demise of the husband of the 1st petitioner, the unofficial respondents under the guise of alleged sale deeds encroached into the subject property and are trying to make temporary constructions. It is further stated that the unofficial respondents and some third parties have approached the 2nd respondent seeking permission to construct in the subject property, and that they also approached the Tahsildar, Medipalli Mandal, requesting permission for digging borewell in the subject land. Aggrieved thereby, the petitioner filed W.P.No.39183 of 2018 which was disposed of by this Court by order dated 31.10.2018. The petitioner has also filed W.P.No.123 of 2019 before this Court complaining inaction on the part of Police in protecting the subject property, pursuant to which the 5th respondent-SHO Medipalli, registered a case against Unknown accused in Crime No.3 of 2019 for the offences punishable under Sections 447, 427 and 506 read with 34 IPC. It is the grievance of the petitioner that the respondent authorities are not taking any action to stop the illegal construction being made by the unofficial respondents and others.

4. With respect to the same subject matter and grievance between the parties in an earlier round of litigation in W.P.No.39183 of 2018, this Court, while disposing the said writ petition by order dated 31.10.2018, directed

the 2nd respondent therein to take into consideration the objections raised by the petitioners in the representation dated 24.09.2018 along with supporting documents, and pass appropriate orders, if not already passed, in accordance with law, after hearing the petitioners and the unofficial respondents. Whether any orders were passed on the representation dated 24.09.2018, after taking into consideration the objections of the petitioners and also of the unofficial respondents, is not placed before this Court. Further, no material is placed before this Court to show that the petitioners exercised due diligence in obtaining information either under the Right to Information Act, 2005, or otherwise, as to whether the representation/objections dated 24.09.2018 has been taken up for consideration, and whether any orders were passed thereon.

5. Admittedly, a suit for declaration of title is pending in O.S.No.1075 of 2014 on the file of I-Additional District Judge, Ranga Reddy District, between the petitioners and unofficial respondents and some third parties; and an *ex parte, ad interim* injunction was granted in favour of the petitioners. Nevertheless, the claims of respective parties have to be decided by the trial Court after adjudicating the evidence that may be adduced by them during the course of trial.

6. When it is the assertion of the petitioners that the unofficial respondents or the third parties are trying to make illegal constructions in the subject land and have approached the 2nd respondent for building permission, and also approached the Tahsildar, Medipalli Mandal for borewell permission, the petitioners ought to have obtained relevant information either under the Right to Information Act, or otherwise, as to whether the said persons have, in fact, obtained such permissions; and, if so the credentials basing on which such permissions were granted by the

authorities. In the absence of any such effort by the petitioners, this Court is not inclined to issue notices to the unofficial respondents to verify whether they obtained requisite permissions or not for making the alleged constructions.

7. It is fundamental on the part of the person seeking a *writ of mandamus* to prove that he has a right and that he approached the authorities concerned asserting his right by placing the material; and it is only thereafter, he approached this Court with all those material complaining inaction. As stated supra, the petitioners did not make such effort, but directly approached this Court merely dropping a representation with the respondent authorities. In those circumstances, this Court is not inclined to issue a *mandamus* directing the authorities to consider and pass *ex parte* orders on the representation of the petitioners.

8. The Writ Petition is dismissed. However, the petitioners are given liberty to approach the appropriate authority and satisfy them by placing relevant material with respect to the alleged constructions made by unofficial respondents 6 to 8. As and when such material is placed, if the Authority does not act, the petitioners would be at liberty to avail the remedies in accordance with law. No costs. Miscellaneous petitions, if any pending, shall also stand dismissed.

CHALLA KODANDA RAM, J

04th April, 2019

KSM

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