

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 8020 of 2019

ORDER:

The petitioner claims to be the owner of Plot No.27 admeasuring 410 square yards, Plot No.28 admeasuring 440 square yards, Plot No.29 admeasuring 400 square yards, situated in Kakaji Colony, Hanamkonda, Warangal District. Purportedly, the source through which the petitioner claims his ownership is on account of his mother and brother dying intestate with respect to their respective shares in a joint family property which came to be partitioned in O.S.No.24 of 1968 on the file of Hon' ble Subordinate Judge, Warangal. The petitioner further claims that his brothers also have share in the subject property. Be that as it may. It is alleged that unofficial respondents 4 to 8, based on some allegedly bogus documents, claimed title to the subject plots and are proceeding with construction. Aggrieved thereby, the petitioner filed suit in O.S.No.184 of 2018 on the file of VII Additional District Judge, at Warangal, seeking Partition and Separate possession, along with declaring the alleged sale documents of the unofficial respondents 4 to 8 as bogus, null and void. The petitioner further states that he filed an application seeking an interim injunction in the suit, but no orders were passed in that regard, however, notices were issued to the unofficial respondents. While so, on the allegation that unofficial respondents 4 to 8 are making illegal constructions in the subject plots, which are sub-judice, the petitioner claims to have requested the respondent authorities to stop the illegal construction, and also issued legal notices dated 06.02.2019 and 27.03.2019 in that respect, but to no avail. Complaining inaction on the part of the respondent authorities preventing the alleged illegal construction being made by unofficial respondents 4 to 8, the petitioner filed this writ petition.

2. Heard Sri A. Venkatesh, learned counsel for the petitioner, Sri M. Ajay Kumar, learned counsel for respondent No.2, and Smt. Pingali Lakshmi, learned counsel for respondent No.3

3. Admittedly, the petitioner filed a suit for Partition and Separate possession of subject plots in O.S.No.184 of 2018 and the same is pending on the file of VII Additional District Judge, Warangal, along with a consequential relief of declaring the sale deed documents in possession of the unofficial respondents as fake and bogus. The petitioner claims to be the share holder in the suit schedule property, along with his brothers, on account of his mother and brother dying allegedly intestate. Admittedly, certain sale deeds, though allegedly fake, are in possession of unofficial respondents basing on which they are claiming title to the subject property. The claims with regard to title or right of respective parties in the suit property is a matter to be adjudicated by the trial Court after appreciating the evidence that may be adduced by the parties during the course of trial.

4. When it is the assertion of the petitioner that the unofficial respondents are trying to make illegal constructions in the subject lands, allegedly on the strength of building permission said to have been granted by the respondent authorities, he 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.

5. 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 petitioner did not make such effort, but directly approached this Court merely dropping a representation or legal notices 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 petitioner.

6. The Writ Petition is dismissed. However, the petitioner is given liberty to approach the appropriate authority and satisfy them by placing relevant material with respect to the alleged constructions made by unofficial respondents 4 to 8. As and when such material is placed, if the Authority does not act, the petitioner 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

17th April, 2019

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