

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.9535 of 2019

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner, seeking a Writ of Mandamus to declare the action of respondents 1 to 5 in not providing police aid/protection for implementation of perpetual injunction order granted in favour of the petitioner in O.S.No.559 of 2007 on the file of IX Junior Civil Judge, City Civil Court, Hyderabad, restraining the 6th respondent and her henchmen from interfering with the peaceful possession and enjoyment of the petitioner in respect of property bearing H.No.8-1-68/A/1/34 on Plot No.34 in Survey No. 591 (old), 327/9, 327/12 & 327/13 (new) admeasuring 510 square yards situated at Vinayak Nagar, Shaikpet Village, Hyderabad, which was confirmed in A.S.No.42 of 2010 on the file of Chief Judge, City Civil Court, Hyderabad, despite submitting representation, dated 30.08.2017, as illegal and arbitrary and for a consequential direction to respondent Nos.1 to 5 to provide police aid/protection for implementation of the aforementioned perpetual injunction order granted in favour of the petitioner.

2. Heard the learned counsel for the petitioner, the learned Assistant Government Pleader for Home representing the respondent Nos.1 to 5 and perused the record.

3. It has been contended on behalf of the petitioner that a perpetual injunction order was passed by a competent civil Court in favour of the petitioner restraining the 6th respondent and her men from interfering with the possession and enjoyment of the

petitioner over the disputed property. The petitioner submitted an application, dated 30.08.2017, to the 5th respondent/Station House Officer, Golconda Police Station, Hyderabad District, seeking police aid/protection for reconstruction of compound wall by enclosing the copy of the aforementioned perpetual injunction order. Despite submission of the said application, respondent No.5 failed to provide police aid/protection to the petitioner.

4. The material placed on record reveals that there is interference by the 6th respondent with the possession and enjoyment of the petitioner over the disputed property, in spite of there being a perpetual injunction order in favour of the petitioner as contended. An efficacious and alternative remedy is available to the petitioner under Order XXXIX Rule 2A of the Code of Civil Procedure, 1908. In view of efficacious and alternative remedy available to the petitioner under Order XXXIX Rule 2A of C.P.C., it is not appropriate to permit the petitioner to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

5. Accordingly, this Writ Petition is disposed of, granting liberty to the petitioner to avail the remedy under Order XXXIX Rule 2A of the Code of Civil Procedure, 1908, by moving appropriate application before the competent civil Court. No costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

30th April, 2019
Bvv

Dr. SHAMEEM AKTHER, J