

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.14770 of 2019

ORDER:

This Writ Petition is filed seeking to issue a writ of *Mandamus* declaring the action of respondent Nos.2 and 3 in interfering with the petitioners' land admeasuring Acs.11.13 guntas in Survey Nos.20, 21 and 22 situated at Jalpally Village, Balapur Mandal, Ranga Reddy District, as illegal and arbitrary.

Heard learned counsel for the petitioners and learned counsel for respondent No.4.

Counter-affidavit is filed by respondent No.4, wherein it is stated that O.S.No.2088 of 2009 was filed for perpetual injunction by some of the petitioners herein against him and others and the said suit has been dismissed. It is further stated that earlier, Writ Petition No.6768 of 2018 was filed by the petitioner herein against respondent No.4 herein and others in respect of the subject property of this Writ Petition and the same was disposed of.

The aforesaid facts were not disclosed in the affidavit, filed in support of the Writ Petition. Further, it is to be noted that the said facts are neither disputed by the petitioners in the reply-affidavit nor by the learned counsel for the petitioners. More over, in para-8 of the reply-affidavit it is stated as under:

“In reply to para No.7 of the counter affidavit, it is humbly submitted that O.S.No.2088 of 2009 for perpetual injunction filed against respondent No.4 by one K.Gopi who is said to be a G.P.A. holder of the petitioners. That these petitioners deny the said G.P.A holder and the said

execution of Development Agreement-cum-General Power of Attorney in favour of K.Gopi.”

The version of the petitioners herein, who are the defendants in O.S.No.1659 of 2009 on the file of the Principal Senior Civil Judge, Ranga Reddy District, in their written statement, is otherwise, as could be seen from para-11 of the judgment, dated 17.01.2017. The relevant portion of the said written statement is as under:-

“The family members of the defendants entrusted the entire land to one K.Gopi under Development agreement-cum-General Power of Attorney in the year 2008, the said Developers got constructed a compound wall around the property. The defendants and his family members entrusted the land to an extent of Acs.16.02 guntas to K.Gopi for development and he undertook the development activities. The defendant has no necessity to visit the land as the development work was entrusted to K.Gopi.”

Having regard to the aforesaid facts and circumstances, the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India being equitable and discretionary cannot be invoked when the party has approached the Court without stating the full and candid facts and no relief can be granted to such party.

The Apex Court in *Mithoolal Nayak vs Life Insurance Corporation of India*¹ held that no relief can be granted to a party who has suppressed the material facts.

In the light of the aforesaid judgment of the Apex Court, the Writ Petition is liable to be dismissed on the sole ground of suppression of the material facts.

The Writ Petition is accordingly dismissed.

¹ 1962 AIR 814

As a sequel, Miscellaneous Petitions, if any, pending shall stand dismissed. No order as to costs.

A.RAJASHEKER REDDY, J

19th August, 2019
dr

