

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

W.A. No. 709 of 2019

Date: 30.08.2019

Between:

Karri Chandra Sekhar Reddy and others

...Appellants

and

The Secunderabad Cantonment Board,
Rep. by its Chief Executive Officer,
Court Compound,
S.P. Road, Secunderabad,
Telangana State, and others.

...Respondents

Counsel for the appellants:

Mr. V. Ramchander Goud

Counsel for the respondent Nos.1, 2, 11 & 12 : Mr. K.R. Koteswera Rao,
SC for CANTONMENT

The Court made the following:

JUDGMENT: *(per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)*

The appellants are aggrieved by the order dated 25.07.2019, passed by a learned Single Judge of this Court in W.P.No.12619 of 2019, whereby the learned Single Judge has dismissed the writ petition *inter alia* on the ground that there are too many complicated disputed questions of fact which cannot be gone into by the writ Court.

Briefly the facts of the case are that the appellants-petitioners have challenged the order dated 08.05.2019, passed by the respondent No.1. According to the appellants, they are residents of Balamrai, Secunderabad. Moreover, the respondent Nos. 9 and 10, who are claiming to be the owners of the land admeasuring 586 square yards, are trying to encroach upon the Government road/lane upto 12 feet, and open space of the Government around 100 square yards. Thereby, the respondent Nos.9 and 10 are obstructing the use of the lane by the public at large.

Moreover, the neighbouring residents, including some of the appellants, had already filed a writ petition before this Court, namely W.P.No.33723 of 2018. By order dated 24.09.2018, this Court had directed the Secunderabad Cantonment Board, the respondent No.1, to consider the objections of the petitioners before considering the application filed by the respondent Nos.9 and 10 for grant of permission for construction of compound wall.

Furthermore, according to the appellants, the Chief Executive Officer, Secunderabad Cantonment Board, the

respondent No.11, has considered all the objections raised by the residents, and by order dated 08.05.2019, dismissed their objections. According to the appellants, the respondent No.11 is, in fact, hand in glove with the respondent Nos.9 and 10. Furthermore, the respondent No.11 is attempting to illegally grant permission to the respondent Nos.9 and 10 for raising the compound wall. If the construction of the compound wall were permitted, the respondent Nos.9 and 10 would succeed in their plans of encroaching upon the Government road, and open space of the Government land. Therefore, the appellants have challenged the legality of the order dated 08.05.2019. However, as mentioned hereinabove, by the impugned order, the learned Single Judge has dismissed the writ petition filed by the appellants. Hence, this appeal before this Court.

A bare perusal of the impugned order clearly reveals that the learned Single Judge has noticed that the objections raised by the residents of the colony, who are the petitioners in W.P.No.33723 of 2018, were duly considered by the respondent No.11 and were rejected by the impugned order. Moreover, the respondent No.11, while relying upon certain documents, had concluded that no lane exists from the appellants' property. Moreover, the learned Single Judge was of the opinion that the power of the respondent No.11 is limited only to the extent of granting the permission to raise the construction. However, he does not have the power to entertain any disputed questions of fact regarding the title of the property. Since the writ petition would require the writ Court to decide

whether the lane exists or not ? Whether the respondent Nos.9 and 10 too have a title over the property over which they proposed to raise compound wall or not ? Obviously such disputed question of facts, which require oral and documentary evidence, cannot be decided by the writ Court.

It is, indeed, trite to state that there are certain self-imposed limitations on the power of a writ Court. One of the self-imposed limitations is that a writ Court will not enter into disputed questions of fact which require oral and documentary proof. Moreover, the grant of a writ is a discretionary remedy. Since disputed questions of facts have arisen, the discretionary power to grant a writ should not be exercised. Therefore, the learned Single Judge was justified in passing the impugned order.

For the reasons stated above, this Court does not find any illegality, or perversity in the impugned order. This writ appeal, being devoid of any merit, is hereby dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, shall also stand dismissed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

Date: 30.08.2019

(A. ABHISHEK REDDY, J)

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