

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.19774 of 2019

ORDER:

The prayer of the petitioners in this Writ Petition is as under:

“...to issue a Writ Order or Direction more particularly one in the nature of Writ of Mandamus declaring the actions of Respondent Nos.2 and 3 in interfering in the peaceful possession of the Petitioners' House Property bearing Municipal Nos.17-3-364 and 17-3-365 which is comprising of double storied Ground Plus First Floor total admeasuring 150 Sq Yards or 126 sq.mts situated at Dargah Barhanay Shah Saheb Santosh Nagar, Hyderabad, as illegal, arbitrary and in violation of Principles of Natural Justice and also in violation of Articles 14, 21 and 300A of the Constitution of India and consequently may direct Respondent Nos.2 and 3 not to harass the Petitioners by filing false and frivolous complaints against him in any manner in the interest of justice.”

Today, at the hearing, learned Assistant Government Pleader for Home produced the written instructions, dated 11.9.2019, which is as follows:

“It is submitted that one Gudelli Rajendar, Occ: Care Taker in Heritage Department gave a complaint to the Station House Officer, Santoshnagar on 24.11.2018 stating that on 23.11.2018 at about 3 pm., the petitioner came to paigah tombs to grab the Nakkar Khana of Paigah tombs and after that again on 24.11.208, at 11 am he went to the above place, immediately the security guard informed him on cell phone and on receiving the information, he went there and enquired with Ameeruddin before that on 21.11.2017 Md. Ameeruddin trespassed into paigah tombs along with family members to illegally grab the Nakkar Khana.

On receipt of above complaint, a case was registered in Crime No261/2018 under Section 448 IPC of Santoshnagar Police Station on 24.1.2018. That during the course of investigation, LWs.1 and 2 were examined and there statements were recorded, issued notice under Section 41(A) (1) CrPC to the accused person on 01.12.2018.

It is submitted that after completion of investigation, charge sheet was filed against the accused on 03.01.2019 for the offences under Sections 448 IPC and Section 19(1) of A.P. Ancient and Historical Monuments and Archaeological Sites Remains Act VII of

1960 and the case was numbered as CC.No.1404 of 2019 on the file of VII Additional Metropolitan Sessions Judge Nampally. The case is pending trial.”

Heard learned counsel for the petitioners and learned Assistant Government Pleader for Home and perused the record.

Even according to learned counsel for the petitioners, petitioner No.2 has already filed a suit-O.S.No.920 of 2013 against third parties on the file of the learned Junior Civil Judge, City Civil Court, Hyderabad, in respect of the subject property in this Writ Petition.

Thus, it is clear that there are civil disputes between the petitioners and respondent Nos.2 and 3 in respect of the subject property. Therefore it is always open to the petitioners to avail the alternative remedies by approaching the competent civil Court. This Court cannot entertain the Writ Petition to decide the title of the petitioners over the subject property and decide the civil disputes between the petitioners and respondent Nos.2 and 3.

In view of the above, this Court does not find any merit in the Writ Petition and the same is accordingly dismissed granting liberty to the petitioners to avail appropriate alternative remedies available to them in accordance with law.

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

A.RAJASHEKER REDDY, J

12th September, 2019
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