

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 20800 OF 2019

O R D E R:

Petitioner claims to be the owner and possessor of plot No. 556 in an extent of 500 square yards in Survey No. 177 Part of Gopannapalli Village, Lingampalli Mandal, Ranga Reddy District, bounded by East – plot No. A555; West – Plot No. 557; North – 33' wide road and South: plot No. A549, by way of acquisition through sale deed dated 17.08.1987. It is his assertion that the subject property was purchased by his father from one Narendra Pershad Dubey, S/o Manik Pershad through their GPA holder Sri N.V. Ramanaiah. The complaint of the petitioner is that the 5th respondent was granted permission for construction over his land. He therefore, is stated to have submitted objections on 24.08.2019 setting out that he had acquired the property through a Will dated 13.01.1992 and since then, he is in possession and enjoyment thereof. However, recently, the petitioner came to understand that the 5th respondent firm started excavating the earth in his property and making illegal constructions. When attempted, the petitioner was not allowed to enter into the subject property and thereafter, on enquiry, he came to know that the respondent Corporation granted permission for construction of cellar + stilt + 15 floors and compound wall. The petitioner had also came to understand that the 5th respondent obtained a developmental –cum- general power of attorney dated 02.03.2017 in respect of Ac.2.05 guntas out of Ac.2.20 guntas situated in Survey No. 177 of Gopannapally Village and based on the said document, the permission for construction was obtained. In those circumstances, the petitioner sought

cancellation of the permission granted in favour of the respondents.

Heard learned counsel for the petitioner.

On the other hand, Sri Sampath Prabhakar Reddy, learned Standing Counsel for the Corporation opposes the Writ Petition and submits that based on the documents submitted, on scrutiny, the Corporation having found *prima facie* title and right with the applicant, granted permission. At any rate, as it is the assertion of the petitioner that the 5th respondent had illegally trespassed and occupied his property, it is for the latter to approach the civil Court and seek appropriate relief as the title disputes cannot be decided by the Corporation, contends the learned Standing Counsel.

Having regard to the respective submissions, it is to be seen that except addressing a letter to the Corporation wherein details with respect to certain sale deeds have been mentioned, no effort was made by the petitioner to verify on what basis, the 5th respondent was granted permission. Admittedly, even as per the sale deed of the petitioner, the extent of Survey No. 177 Part is Ac.4.32 ½ guntas, wherein he claims only 500 square yards. A perusal of the permission granted in favour of the 5th respondent discloses that it relates to Survey No. 177 Part. Neither this Court nor the municipal authorities can come to a conclusion whether Survey No. 177 Part over which permission was granted is overlapping the petitioner's property or not, as, essentially, the same would require verification with respect to the survey numbers and specific boundaries of the respective parties.

As it is the specific assertion of the petitioner that his property was encroached by the 5th respondent, the appropriate

remedy available to him is to invoke the civil jurisdiction. In those circumstances, the Writ Petition is closed leaving it open to the petitioner to avail the remedies under civil law. The observations made in this Writ Petition shall not be construed as expressing any opinion as to respective rights and they are made only for the purpose of indicating the fact that invoking writ jurisdiction is not an appropriate remedy.

The miscellaneous Applications, if any shall stand closed.

24th September 2019

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CHALLA KODANDA RAM, J

