

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.24915 OF 2019

Dated:13.11.2019

Between:

Smt. K. Haritha, W/o. K. Sheker,
Aged 30 years, Occ: Housewife,
And others

.. Petitioners

And

The State of Telangana, rep., by its
Principal Secretary, Revenue Department,
Secretariat, Hyderabad and others
Respondents

..



This Court made the following:

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ORDER:

Heard learned counsel for the petitioners, learned Government Pleader for Revenue for respondents 1 to 4 and Sri Sampath Prabhakar Reddy, learned standing counsel for respondents 5 and 6.

2. According to petitioners, they were given D-Form Pattas in the year 1978; they have constructed houses in the allotted house sites and have been living in the said houses for long time. While so, on 27.01.2017, the Tahsildar, Uppal Mandal, the 4th respondent, passed order under Section 6 of the Land Encroachment Act, 1905 (for short, 'the Act') declaring the petitioners as encroachers of land in Survey No.181/1 of Kothapet Village. Aggrieved thereby, petitioners preferred appeal before the Revenue Divisional Officer, Keesara Division, Medchal Malkajgiri District, the 3rd respondent. The 3rd respondent dismissed the appeal on 16.05.2018 and on 26.05.2018 the left over structures were demolished. Aggrieved by the same, the petitioners preferred revision and the same is pending consideration before the Commissioner, Survey, Settlement, Land Administration and Appeals. The Commissioner assigned Revision No.73 of 2018 to the revision filed by the petitioners. The petitioners also claim to have filed O.S.No.183 of 2018 on the file of II Additional District Judge, Ranga Reddy District, praying to grant declaration that they are the absolute owners and possessors and are entitled for damages. Alleging that the respondents are now undertaking construction of 2BHK

multi-storied building besides Musi Nala in Survey No.181/1 of Kothapet Revenue Village, this Writ Petition is filed.

3. Learned counsel for the petitioners contend that if construction activity is taken up now, it would defeat the revision filed before the revisional authority and it would also frustrate the suit instituted by the petitioners pending in the Court of II Additional District Judge, Ranga Reddy District. Therefore, the petitioners seek direction not to undertake construction until the revision and the suit filed by them are decided.

4. *Prima facie*, from a reading of the order of the 3rd respondent passed under Section 10 of the Act, the 3rd respondent was not convinced with the plea of assignment and therefore confirmed the decision of the Tahsildar.

5. Learned counsel for the petitioners fairly submits that the interlocutory application filed before the lower Court for grant of injunction is pending consideration of the said Court. He further submits that the petitioners also filed interlocutory application before the revisional authority seeking stay of the order of the lower authority and is pending. As the interlocutory applications are pending before the appropriate authority/Court, at this stage, the prayer of the petitioners to give directions to the respondents not to undertake construction activity cannot be granted, as it would be amounting to transgressing into the jurisdiction of a quasi-judicial authority and the competent civil Court in exercise of power of judicial review under Article 226 of the Constitution of India even before they take a decision.

The Court is not inclined to entertain the Writ Petition and the same is liable to be dismissed.

6. The Writ Petition is accordingly dismissed leaving it open to the petitioners to work out their remedies as available in law in the pending revision and the suit, as the case may be. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO, J

Date:13.11.2019

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