

THE HONOURABLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION No.30903 of 2014

ORDER:

There is no representation on behalf of the petitioner.

2. The prayer sought in the writ petition is as under:-

“... to issue a writ, order or direction, one more particularly in the nature of writ of mandamus declaring the inaction of respondents in not taking any action, examining witnesses, seizing documents as prescribed under Criminal procedure code and not taking any action on petitioner application dated 30.9.2014 is illegal, arbitrary, mala fide capricious to the powers conferred on the respondents and against the spirit of criminal justice system in the interest of justice and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.”

3. Learned Government Pleader placed on record the written instructions issued by the Sub-Inspector of Police, Mir Chowk Police Station, Hyderabad.

4. From a perusal of the said instructions, it is revealed that the petitioner filed a private complaint under Section 200 Cr.P.C. on the file of the learned VIII Additional Chief Metropolitan Magistrate, Hyderabad, stating that he purchased the subject house from one Mahaboob Bee on 09.11.2010 by registered sale deed. However, one K.Elishah and K.Nagamma have no connection with the said property, tried to grab the said house. Therefore, the petitioner was forced to file a suit in O.S.No.333 of 2010 on the file of the learned XX Junior Civil Judge and obtained interim injunction orders. The said two persons also filed a suit in O.S.No.4881 of 1991 on the file of the learned X Additional Judge, claiming that they are the tenants, but the

said suit was dismissed. The appeal filed by the said two persons was also dismissed. Thereupon, the said persons forged and fabricated the sale deed, vide document No.409 of 2011, dated 28.03.2011, by meddling the said house property. On 26.04.2011, the said two persons along with 10 to 15 unsocial elements came to the house of the complainant and trespassed into the house property. Upon receipt of the said complaint under Section 156(3) Cr.P.C., a case in Crime No.159 of 2011 was registered on 03.09.2011 against K. Elishah and K.Nagamma on the file of the Mir Chowk Police Station, Hyderabad, and investigation was taken up. During the course of investigation, the complainant and other witnesses were examined and their detailed statements were recorded. The investigation revealed that there was a civil dispute between the complainant and the accused persons and the subject property was under dispute in O.S.No.331 of 2011 on the file of the learned XX Junior Civil Judge, City Civil Court, Hyderabad. After obtaining permission from the Assistant Commissioner of Police, Mir Chowk, Hyderabad, vide No.320/FR/ACP/Mc-Dvn/2014, dated 31.08.2014, the matter was referred as 'civil in nature' and a final report was filed on 13.08.2014 before the learned VIII Additional Chief Metropolitan Magistrate, Hyderabad. However, the petitioner refused to receive the notice, hence, the same was sent by registered post. The copies of the final report, proceeding of the Assistant Commissioner of Police, Mir Chowk, Hyderabad, and postal receipt are also enclosed to the written instructions. Ultimately, the

final report was filed on 31.08.2014. Therefore, transferring the investigation may not arise.

5. In that view of the matter and since a final report is already filed, the remedy available to the petitioner is to file a protest application as per law before the concerned Magistrate. Therefore, the writ petition is not maintainable and the same is liable to be dismissed.

6. Accordingly, the writ petition is dismissed. No order as to costs.

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

19th December 2019
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P. KESHAVA RAO, J

