

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.29008 of 2019

ORDER:

The petitioner claims to be the owner of plot admeasuring 300 sq. yards in Sy.No.30, Thipapur Town, Vemulawada, Rajanna Sircilla District, having purchased the same through a registered sale deed dated 22.03.2018. While so, the respondent No.3 claims to be the owner of the land admeasuring 121 sq. yards in Sy.Nos.29 and 30 and obtained permission from the erstwhile Gram Panchayat on 22.02.2018. It is further averred in the affidavit that the respondent No.4 claims to be the owner of the house bearing D.No.2070/B/2/4 in Sy.Nos.29 and 30 admeasuring 120.18 sq. yards and has obtained building permission from the erstwhile Gram Panchayat on 26.02.2018. Based on the said building permissions, they have started construction by encroaching into the land belonging to the petitioner. The averments in the affidavit disclose that the respondent No.3 filed a suit, O.S.No.12 of 2019 pending in the Court of the Junior Civil Judge, Vemulawada and the petitioner herein is one of the defendants. The suit was decreed *ex parte* on 12.09.2010. The petitioner claims that he has filed an application to set aside the *ex parte* decree and the same is pending.

2. It is further averred that the petitioner filed a suit, O.S.No.115 of 2019 on the file of the Junior Civil Judge, Vemulawada, against the respondent No.4 and the same is pending consideration. The respondent No.4 also filed a suit, O.S.No.117 of 2019 on the file of the Junior Civil Judge, Vemulawada, and the same is pending.

3. That being so, alleging that the respondent Nos.3 and 4 are undertaking constructions in the land belonging to him, the petitioner submitted a representation to the Municipal Commissioner,

Vemulawada Municipality, requesting him to restrain the respondent Nos.3 and 4 from construction activity on the land belonging to him. Alleging inaction on the said representation, this writ petition is filed.

4. As briefly noticed above, there is an *inter se* dispute between the petitioner and the respondent Nos.3 and 4 and three suits are pending among them on the very same property. Petitioner admits that the building permission was obtained by the respondent Nos.3 and 4 and they are undertaking construction thereon. Once building permission is obtained, the respondent – Municipality cannot stop the construction unless the construction is in deviation of the building permission, which is not the allegation of the petitioner. The respondent – Municipality cannot go into the rival disputes to property and stop the construction activity undertaken by the respondent Nos.3 and 4, which would be nothing but deciding the dispute *inter se* regarding the property claim, more particularly, when three suits are pending on the same issue. Thus, the prayer sought for in the writ petition cannot be granted.

The writ petition is accordingly dismissed leaving it open to the petitioner to work out his remedies. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

P. NAVEEN RAO, J

January 9, 2020
DSK