

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.29026 OF 2019

ORDER:

The present Writ Petition is filed questioning the action of the 3rd respondent in not taking action against respondent Nos.4 and 5 based on the complaint of the petitioner dated 27.07.2019, as being illegal and arbitrary.

Heard learned Counsel for the petitioner and learned Assistant Government Pleader for Home.

It is the case of the petitioner that the petitioner had filed suit bearing O.S. No.66 of 2019 on the file of Junior Civil Judge at Peddapalli seeking the relief of perpetual injunction against respondent Nos.4 and 5 herein and also filed I.A. No.235 of 2019 for grant of ad-interim injunction restraining respondent Nos.4 and 5 herein from interfering with the petitioners possession and enjoyment.

It is submitted by the learned Counsel for the petitioner that the trial Court initially granted *ex parte* ad-interim injunction on 12.07.2019 till 30.07.2019, and after appearance of the respondents in the said suit, the interim order was extended thereafter and the said injunction is in force. It is claimed that while the said *ex parte* order was in force, the respondent Nos.4 and 5 in violation of order in I.A. No.235 of 2019 in O.S. No.66 of 2019 entered the petitioner's land, damaged the construction material and threatened the petitioner with dire consequences, whereby it is claimed that the petitioner has made the complaint to the 3rd respondent by his representation dated 27.07.2019.

Questioning the inaction of the 3rd respondent in taking action on the basis of the complaint, the petitioner has approached this Court by way of the present Writ Petition.

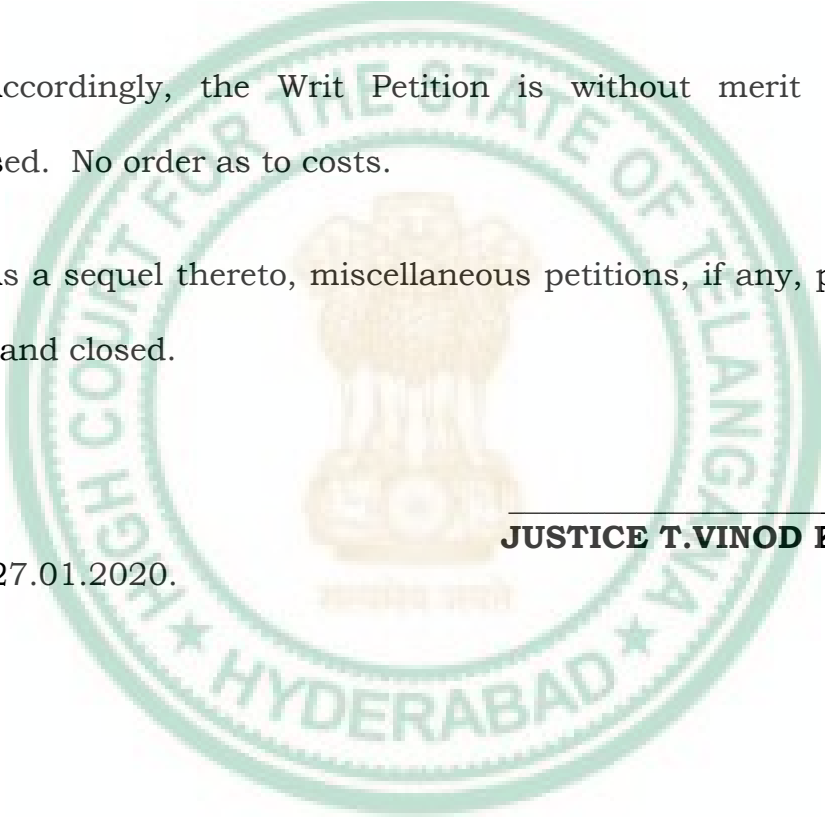
On being asked by this Court, during the course of hearing as to the steps taken by the petitioner against the respondents for breach of the orders in I.A. No.235 of 2019 in O.S. No.66 of 2019, the learned Counsel for the petitioner submitted that the petitioner has filed a petition before the trial Court under Order 39 Rule 2A read with Section 151 CPC to punish the respondents for violating the injunction order. It is claimed by the learned Counsel for the petitioner that such application was filed on 05.12.2019 and a copy thereof has been placed before this Court. In so far as the inaction on the part of the 3rd respondent in taking action on the basis of the complaint of the petitioner dated 27.07.2019, the present Writ Petition was filed on 28.12.2019.

As seen from the copy of the I.A. filed by the petitioner under Order 39 Rule 2A read with Section 151 CPC, the petitioner has claimed that the respondents have violated the interim orders by entering into the petitioner's premises on 28.11.2019, while in the complaint made to the 3rd respondent on 27.07.2019, viz., four months prior to the filing of I.A. under Order 39 Rule 2A of C.P.C., the petitioner sought for action being taken against the respondents, claiming that the respondents entered the petitioner's land and damaged construction material in violation of injunction order, without mentioning any date as to the occurrence.

Thus, it is to be seen the conduct of the petitioner in filing the complaint without mentioning the date and filing the present writ petition questioning the inaction of the 3rd respondent from acting on the complaint so made, clearly indicates that the claim of the petitioner is not genuine and lacks bonafides. Further, as the petitioner has already approached the trial Court for disobedience of the interim order, by mentioning the date of such violation, this Court is of the view that the petitioner is not entitled for the relief as sought for in the present writ petition.

Accordingly, the Writ Petition is without merit and is dismissed. No order as to costs.

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



JUSTICE T.VINOD KUMAR

Date: 27.01.2020.

MRKR