

**THE HONOURABLE SRI JUSTICE P. KESHA VA RAO**

**WRIT PETITION No.34881 of 2014**

**ORDER:**

Heard learned counsel for the petitioner as well as learned Government Pleader appearing for the respondents 1 to 5.

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

“...to issue an appropriate Writ, Order or direction more particularly in the nature of Writ of Mandamus declaring the action of the respondents 4 and 5 herein in acting as per the letter of the 3<sup>rd</sup> respondent herein dated 09.11.2014 for registering a case against the petitioner at the instance of 6<sup>th</sup> respondent is highly arbitrary, illegal, null and void and consequently direct the respondents to conduct the survey and fix the boundaries in respect of the house plot No.36/1 in Sy.No.40 to an extent of 70 Sq.Yards situated at Khajaguda Village and the plot claimed by the 6<sup>th</sup> respondent in Sy.No.66 of Khajaguda Village, Serilingampally Mandal, Ranga Reddy District forthwith in the interest of justice and pass such other or further orders as this Hon’ble Court may deem fit and proper.”

3. Learned Government Pleader placed on record the written instructions, dated 10.01.2020, issued by the Assistant Sub-Inspector of Police, Raidurgam Police Station, Cyberabad Commissionerate.

4. From a perusal of the said written instructions, it is revealed that one Smt.D.Rekha, who is the 6<sup>th</sup> respondent herein, approached the police, Raidurgam on 09.11.2014 and lodged a complaint stating that the petitioner is illegally trespassed into her plot No.62 in Survey No.66/3 of Raidurgam Pan Maktha, Serilingampally, and raised a compound wall. Therefore, she requested the police to take necessary action. Pursuant to the said complaint, a General Diary entry was made in the station record and a preliminary enquiry was conducted. After enquiry, a case was registered in Crime No.242 of 2015 for the

offences under Sections 447 and 427 IPC, Sections 3 and 4 of the Land Grabbing Act and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act on 01.08.2015. After completion of investigation, charge sheet was also filed before the Special Sessions Judge for SC/ST (POA) Act Cases, L.B.Nagar. The same was taken on file as S.C.No.109 of 2016, which is pending trial.

5. From a perusal of the contentions made in the affidavit filed in support of the writ petition as well as the prayer sought in the writ petition, the writ petition as filed is not maintainable, since the disputed questions of fact cannot be gone into in a writ petition filed under Article 226 of the Constitution of India. If there is any dispute with regard to the construction of the compound wall whether in the land allotted to the petitioner or in the land allotted to the 6<sup>th</sup> respondent, the same has to be decided by a competent civil Court. Therefore, this Court is of the opinion that there are no merits in the writ petition and the same is liable to be closed.

6. Accordingly, the writ petition is closed. However, liberty is given to the petitioner to approach the competent civil Court for redressal of his grievance. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

**P. KESHAVA RAO, J**

10<sup>th</sup> January 2020

mar