

HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION NO.15153 OF 2019

ORDER:

This is a Writ of *Mandamus* filed by the petitioner to declare the action of the respondents in not providing police aid to the petitioners for construction of compound wall to secure their property in Sy.Nos.319/1, 319-1-A and 319/1-B of Sontyam Village, Anandapuram Mandal, Visakhapatnam to an extent of Ac 7.83 cents in furtherance of order in I.A.No.1286 of 2014 in O.S.No.712 of 2014 dated 21.09.2016 passed by the II Additional District Judge, Visakhapatnam, as illegal and arbitrary.

2. The case of the petitioners is that the petitioners have filed suit in O.S.No.712 of 2014 on the file of II Additional District Judge, Visakhapatnam. They have also filed I.A.No.1286 of 2014 under Order XXXIX Rule 1 and 2 read with Section 151 of CPC for granting of temporary injunction. The trial Court has allowed Interlocutory Application granting temporary injunction in favour of the petitioners vide order dated 21.09.2016.

3. The grievance of the petitioners is that the representation for implementation of interim order granted in their favour, submitted by them to the 3rd respondent has not been considered.

4. Learned counsel for the petitioners placed reliance on the judgment of this Court in ***Kotak Mahindra Bank Limited v. The Station House Officer, Madhapur P.S. Hyderabad and others***¹, and another case in ***Subramanya vs Prl. Secretary, Home Department, Hyderabad***².

5. Learned Senior Counsel submits that in the light of the above judgments, the police have to give police aid to protect the civil rights of the petitioners declared by the competent civil Court.

6. Learned Government Pleader submits that the representation of the petitioner dated 26.09.2019 has been considered and an endorsement has been made by the Station House Officer stating that the matter is of civil in nature. Therefore, it is argued that unless there is an order from competent Court, the matter would not be considered and so advised to approach the competent civil Court for protection.

7. Under these circumstances, considering the submissions of both the counsel and the decisions cited by the learned counsel for the petitioners, this Court is of the view that it is the duty of the Court to give protection to the parties in respect of their properties whenever there is an injunction order in their favour.

¹ (2016) 2 ALT 164 (DB)

² W.P.No.32505 of 2016 dt.14.11.2018

8. In the instant case, it is obvious that the petitioners have got an interim order in their favour for protection of their property with regard to the interference by the third parties. The petitioners are entitled to make use of the property in whatever manner they intend to use it and there cannot be any interference by any third parties in the subject property. No doubt, the suit is pending before the trial Court and in spite of pendency of the suit, the trial Court came to the conclusion that the petitioners were in possession of the property and granted interim injunction. It is not brought to the notice of this Court, any prohibitory orders against the petitioners in making the construction of compound wall.

9. In the light of the above facts and circumstances of this case, the petitioners are given liberty to file a complaint before the police whenever there is an interference by any third parties with their property, and on such complaint, the police shall act immediately taking into consideration that there is an injunction order in favour of the petitioners, by giving appropriate protection.

10. With the above observations, the Writ Petition is disposed of. No order as to costs.

Miscellaneous Petitions, if any pending, shall also stand closed.

G. SHYAM PRASAD,J

Date: 30-09-2019
Gvl

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