

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION.NO.5965 OF 2021

ORDER:-

When the matter is taken up for hearing, the docket order reveals that there was no representation for the petitioner on the last three (3) occasions i.e., on 24.03.2021, 19.04.2021 and 18.09.2022. Therefore, on 18.09.2022, the matter was directed to be listed under the caption 'for dismissal' for today. Even though the matter was posted under the caption 'for dismissal', today also there is no representation for the petitioner. This shows that the petitioner is not evincing any interest in prosecuting the case. Heard learned counsel for the respondents.

The present Writ Petition is filed to declare the action of the 2nd respondent in issuing proceedings dated 05.12.2019 sanctioning permission for construction of village Secretariat (Grama Sachivalayam) for Nuliveedu Village in S.No.2725 admeasuring to an extent of Ac.0.22 cents situated in Nuliveedu Revenue Village, Galiveedu Mandal, YSR Kadapa District as illegal and arbitrary.

The case of the petitioner is that the petitioner is the absolute owner and possessor of the land admeasuring an extent of Ac.0.20 cents in S.No.2725 of Nuliveedu Revenue Village, Galiveedu Mandal, YSR Kadapa District having acquired the same through her ancestors.

Since then, she has been in peaceful possession and enjoyment of the subject property. While so, the respondent authorities are interfering with the possession of the petitioner. Hence, the petitioner herein filed suit in O.S.No.62 of 2019 on the file of Junior Civil Judge, Lakkireddypalli for injunction against respondent Nos. 1 and 3, village revenue officer and 5th respondent/Gram Panchayat and the said suit is pending for consideration. Even though the civil suit is pending for consideration, the respondent authorities without considering the objections raised by the petitioner but proceeding with the construction. Having no other option the petitioner herein filed the present Writ Petition.

On the other hand, learned Standing Counsel for the 5th respondent submits that he filed a memo wherein it is stated that entire construction of the Village Secretariat is completed by the date of filing of the Writ Petition. He further submitted that photo copy attached along with the affidavit may not be correct by the time of consideration by this Court. Therefore, the Writ Petition is filed in a belated stage and the petitioner can avail civil remedies for which she has already initiated before the Court below.

Having regard to the contentions made in the writ affidavit and the submissions of the learned counsel for the respondents it is an admitted fact that the petitioner already invoked civil remedies of law against the subject property before the competent Court in the year

2019 itself. Even though, the petitioner asserted her legal rights claiming over the property, the respondent authorities did not whisper about the rights of the petitioner except stating that the present Writ Petition is filed at belated stage. The fact remains that without there being any proof of title in favour of the respondents, it cannot be said the subject property belongs to the respondents. Hence, as the civil suit filed by the petitioner is still pending, the respondents cannot be allowed to make such construction.

In view of the foregoing discussion, the Writ Petition is disposed of granting liberty to the petitioners to file a fresh writ petition, if any, challenging the construction of the subject building pursuant to the permission granted in favour of the 3rd respondent in respect of the petitioner's property.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

VENKATESWARLU NIMMAGADDA, J

Date:30.09.2022
BSP

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HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

W.P.No.5965 OF 2021
Dated: 30.09.2022

BSP