

(2004) 01 AP CK 0006

Andhra Pradesh High Court

Case No: Writ Petition No. 552 of 2004

Volta Employees" Co-operative
House Building Society Limited

APPELLANT

Vs

Cantonment Board and Others

RESPONDENT

Date of Decision: Jan. 8, 2004

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2004) 4 ALT 145

Hon'ble Judges: A. Gopal Reddy, J

Bench: Single Bench

Advocate: M.V. Bharati, for the Appellant; Deepak Bhattacharjee, SC for C.B. for Respondent No. 1 and Govt. Pleader for Co-operation for Respondent Nos. 2 and 3, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

A. Gopal Reddy, J.

The petitioner claims to be owner of land to an extent of Ac. 1-14 cents in Survey No. 233, Thokatta (Chinna Thokatta) village. Trimulgherry Mandal, Hyderabad having purchased under a registered sale deed dated 3-5-1982 vide document No. 1183 of 1982. It is further stated that pursuant to directions of this Court in W.P. 12407 of 2002 the Mandal Surveyor of the office of second respondent has surveyed the entire survey No. 233 and fixed boundary stones. It is alleged that the 4th respondent society through its men got removed and shifted some of the boundary stones and trying to illegally encroach on the petitioner's land. In the said circumstances, the petitioner society has addressed a letter dated 21-7-2003 to the first respondent seeking permission to lay a fencing around its land. Since, no action was taken, petitioner society addressed another letter dated 28-12-2003 seeking permission to construct a compound wall. It is further alleged that the 4th respondent is trying to encroach upon the petitioner's land and filed the present

writ petition.

2. It is well settled that boundary disputes between two private parties cannot be a subject matter of the writ petition and remedy of civil suit cannot be replaced by writ jurisdiction under Article 226 of the Constitution of India. The petitioner society may take such steps to stop the constructions of the 4th respondent and may approach the concerned authorities to reconsider the sanctioned lay out, but it cannot invoke the jurisdiction of this Court to resolve such disputes.

3. The apex Court in [Mohan Pandey and Another Vs. Smt. Usha Rani Rajgaria and Others,](#) has held as follows:

It has repeatedly been held by this Court as also by various High Courts that a regular suit is the appropriate remedy for settlement of disputes relating to property rights between private persons and that the remedy under Article 226 of the Constitution shall not be available except where violation of some statutory duty on the part of a statutory authority is alleged.

4. In the circumstances, the appropriate remedy for the petitioner is to approach the Civil Court and take steps to protect its property and establish its right over the property.

5. Subject to above, the writ petition is disposed of. No costs.