

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.Nos.25760 of 2014, 4751 of 2015 and 5364 of 2015

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COMMON ORDER:

All these writ petitions are interconnected, as the petitioners in W.P.No.5364 of 2015 and 4751 of 2015 are claiming right, title and interest with regard to the property bearing H.No.8-24-1, III Storied Building, Gandhi Nagar, Balabhavan, Kakinada Town, admeasuring 264.98 sq. yards, whereas the petitioner in W.P.No.25760 of 2014 claims to be a tenant of a portion in the said property.

The grievance of the petitioner in W.P.No.25760 of 2014 is that in spite of his complaint of unlawful dispossession said to have been made before the 2nd respondent on 26-08-2014, no case is registered and no investigation is taken up.

Learned Government Pleader has received instructions, which state that the complaint of the petitioner was forwarded by the 2nd respondent, and based on that a case in Cr.No.139 of 2014, dated 10-09-2014 is already registered by the Kakinada II Town Police Station and the investigation is pending.

Since the crime as aforesaid is already registered on the complaint of the petitioner, the relief sought for in W.P.No.25760 of 2014 does not any more survive.

So far as W.P.Nos.5364 and 4751 of 2015 are concerned, both the petitioners are claiming absolute rights with regard to the property referred to above and both the petitioners have filed suits against each other, which are now stated to be pending before VII Additional District Judge, Kakinada being O.S.No.99 of 2009 filed by the petitioner in W.P.No.4751 of 2015 and O.S.No.113 of 2009 filed by the petitioner in W.P.No.5364 of 2015. While the petitioner in W.P.No.4751 of 2015 filed a suit in O.S.No.99 of 2009 for recovery of mortgaged loan amount and delivery of link documents etc., the suit in O.S.No.113 of 2009 filed by the petitioner in W.P.No.5364 of 2015 is for a declaration and a consequential permanent injunction restraining the defendants therein from interfering with the peaceful possession and enjoyment of the suit schedule property by questioning the registered sale deed, dated 31-03-2007 as void. While the said suits are pending trial before VII Additional

District Judge, Kakinada, both the petitioners have filed number of complaints against each others at various stages and some of which are mentioned in the instructions received by the learned Government Pleader i.e., Cr.Nos.91 of 2014, 139 of 2014, 165 of 2014 37 of 2015 and 41 of 2015. It is stated that the respective crimes registered on the complaints of the parties among each other are subject matter of investigation before respective police stations, where the said crimes are registered. The allegation that the respondent police are interfering with the civil dispute pending among them with respect to the aforesaid property is commonly made by both the petitioners.

Learned Government Pleader has received instructions, which state that the respondent police is aware of pendency of the civil suits and various crimes, as referred to above. It is also stated that in view of serious dispute between the respective petitioners, the law and order problem has arisen in the locality and, therefore, police picket was arranged at that centre in front of the house to prevent law and order problem. However, it is specifically stated that police never interfered with the rights and liabilities of the parties and police did not take custody of the house. It is also stated that Police officers never infringed the rights of the respective petitioners in both the writ petitions. It is stated that police are concerned only with the maintenance of law and order and they are not concerned with the rights and liabilities of the respective parties with regard to the aforesaid property. The instructions further state that to maintain peace and tranquillity, the Sub-Divisional Executive Magistrate, Kakinada, registered M.C.No.6 of 2015 with regard to Cr.No.41 of 2015 under Section 107 Cr.P.C.

It is evident from the above instructions that the civil suits and criminal cases are pending among respective petitioners. The respondent police have categorically stated that they are not concerned with the rights and liabilities of respective parties and only concerned with the maintenance of law and order, so as to prevent untoward incident over the disputed property, as it is stated to be situated in the residential area of the town.

Hence, recording the above instructions, in my view, no further directions are called for in either of the writ petitions except directing the respondent police to continue police picket, but shall confine themselves to their duty to maintain law and order in the locality leaving the parties to get their rights adjudicated before

competent civil court.

So far as the crimes, which are registered against each other by the parties, as referred to above, the concerned Investigating Officer shall complete the investigation in the respective crimes and take appropriate further steps in accordance with law.

Accordingly, all the writ petitions are disposed of. No order as to costs.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 24-03-2015

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HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.Nos.25760 of 2014, 4751 of 2015 and 5364 of 2015

24-03-2015