

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

TUESDAY THE TWENTYFIFTH DAY OF AUGUST
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 24039 OF 2015
AND
WRIT PETITION NO. 24429 OF 2015

Between:

Jutlu Mallikarjuna & Ors. ... Petitioners

V/s.

The State of Andhra Pradesh
Represented by its Prl. Secretary,
Department of Home,
Secretariat, Hyderabad & Ors. ... Respondents

Counsel for the Petitioners: Sri K. Sita Ram

Counsel for the Respondents: GP for Home [AP]

Between:

Gowda Kulkarni Rajsekhar Gowd ... Petitioner

V/s.

The State of Andhra Pradesh
Represented by its Prl. Secretary
Home Department,
Secretariat, Hyderabad & Ors. ... Respondents

Counsel for the Petitioner Sri M. Karibasaiah

Counsel for the Respondents GP for Home [AP]

The Court made the following: [common order follows]

HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 24039 OF 2015

AND

WRIT PETITION NO. 24429 OF 2015

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COMMON ORDER :

Since these two writ petitions are inter-related, this Court deems it appropriate to dispose of the writ petitions by way of passing common order.

2. Heard Sri M. Karibasaiah, learned counsel for the petitioner in WP.24429 of 2015, Sri K. Sitaram, learned counsel for the petitioners in WP.No. 24039 of 2015 and the learned Government Pleader for Home [AP]. Perused the material available on record.

3. It is clear from the pleadings in the affidavit filed in support of the petition in WP.No. 24429 of 2015 that the grievance of the petitioner in the said writ petition is the inaction on the part of the police in providing police protection despite the orders

passed in I.A.No. 272 of 2013 in OS.No. 14 of 2013 on the file of II-Additional District and Sessions Judge, Kurnool at Adoni, dated 25/0/2013, by restraining the respondents 3 to 6 from interfering with the peaceful possession and enjoyment of the petitioner's land in survey No.74-A to an extent of Acs:4-00 and in survey No.74-C to an extent of Acs:10-00 situated in Jangarama Hosalli village, Halaharvi Mandal, Kurnool district.

4. On the other hand, the grievance of the petitioners in WP.No. 24039 of 2015 is the alleged action of the police authorities in trying to interfere with the civil dispute in respect of the property admeasuring Acs:5-00 and Acs:15-90 cents situated in survey No. 74/A and survey No.74/C of J. Hosahalli village.

5. The sum and substance of the case of the petitioner in WP. No. 24429 of 2015 is that despite injunction granted by the learned II-Additional District and Sessions Judge, in I.A.No. 272 of 2013 in OS.No. 14 of 2013 there is illegal interference by the unofficial respondents.

6. On the other hand, the sum and substance of the case of the petitioners in WP.No. 24039 of 2015 is that the Police are interfering with the civil dispute despite the absence of any orders

from the civil court asking the police to give police protection.

7. In this connection, it may be appropriate to extract the provisions of Order-39, Rule 2-A of Civil Procedure Code.

8. Order-XXXIX, Rule 2-A of Civil Procedure Code reads as under:

Rule 2-A Consequence of disobedience or breach of injunction :

(1) In the case of disobedience of any injunction granted or other order made under rule 1 or rule 2 or breach of any of the terms on which the injunction was granted or the order made, the Court granting the injunction or making the order, or any Court to which the suit or proceeding is transferred, may order the property of the person guilty of the disobedience or breach to be attached, and may also order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the Court directs his release.

(2) No attachment made under this rule shall remain in force for more than one year at the end of which time, if the disobedience or breach continues, the property attached may be sold and out of the proceeds, the Court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto.

9. It is to be noted that as per the above provisions of law, it is always open for the aggrieved party to initiate action before the civil court in the event of disobedience of any orders passed

by the civil court. In view of the said effective and efficacious alternative remedy available to the aggrieved parties, this court is not inclined to entertain the request made by the petitioners in WP.No. 24039 of 2015.

10. For the aforesaid reasons, the writ petitions are disposed of, keeping open for the petitioner in WP.No. 24429 of 2015 to move the civil court where OS.No. 14 of 2013 is pending consideration for appropriate relief under Order-XXXIX, Rule-2A of CPC if he is so advised and if any such application is moved by the aggrieved party, the learned II-Additional District and Sessions Judge, Adoni, shall consider the same in accordance with law. No costs.

11. As a sequel, miscellaneous petitions if any, pending in these writ petitions shall stand closed.

JUSTICE A.V.SESHA SAI

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