

THE HON'BLE SRI JUSTICE A.V. SESA SAI

-

WRIT PETITION No. 39143 OF 2014

-

ORDER:

This writ petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue Writ, order or direction more in the nature of the Writ of Mandamus declaring the inaction on the part of 3rd Respondent in failing to provide protection to the Petitioner as arbitrary, unreasonable act which causes denial of the fundamental right under Article 14, 21 and 300-A of the Constitution of India thereby directing the 3rd Respondent to provide Police Protection to the Petitioner with reference to his right, title and possession upon the agricultural land in Sy.No.40 to an extent of Ac.7-21 guntas in Village Chintapudi, Mandal Vemanpally, District Adilabad.”

2. Heard Sri Pochaiah Dorishetti, learned counsel for the petitioner and learned Government Pleader for Home for the respondents.

3. According to the petitioner, he is Pattadar and Possessor of the agricultural land in Survey No.40 admeasuring an extent of Acs.7.21 guntas situated at Chintapudi Village, Vemanpally Mandal, Adilabad District. Petitioner herein filed O.S.No.27 of 2012 on the file of Junior Civil Judge, Chennur. In the said suit, petitioner filed I.A.No.94 of 2012 under Order XXXIX Rule 1 of CPC for temporary injunction and the said I.A. is pending consideration. Defendants in the said suit also filed I.A.No.80 of 2014. In the said I.A.No.80 of 2014, the learned Junior Civil Judge, Chennur, passed order on 10.10.2014 dismissing the said I.A. while observing that the respondent therein/petitioner herein is in possession and enjoyment of the suit schedule property. On the representation dated 18.08.2014, submitted by the petitioner, the Tahasildar, Vemanpally, made an endorsement “forwarded to S.I.Police, Neelwai to provide protection to Petitioner who is Pattedar of the said land”.

4. In the above background, the grievance of the petitioner is the inaction on the part

of the 3rd respondent – The Sub-Inspector of Police, Neelwai Police Station, Adilabad District, in providing protection to the petitioner.

5. Written instructions dated 27.12.2014 furnished by the Sub-Inspector of Police, Neelwai Police Station, have been placed on record by the learned Government Pleader. The said written instructions read as under:

“It is respectfully submitted that as per the records, it is submitted that it is true that the petitioner herein has sent a complaint dt.13.12.2014 through post to this respondent police station seeking police protection to the subject lands in question. Upon receipt of the same, an entry was made into the General Diary of the Station stating that after conducting preliminary enquiry into the matter, action will be taken on it.

The preliminary enquiry is under process. Action will be taken basing on the merits of the case.

Prima facie, a reading of the said complaint disclosed that he is having lands in Sy.No.40 measuring an extent of Ac.7.21gts situated at Chintapudi Shivar with regard to this lands, a civil suit in O.S.No.27 of 2012 is pending before the Hon'ble Court of Junior Civil Judge, at Chennur. Taking advantage of the non-disposal of this injunction application in the above Suit, the defendants therein are interfering with the peaceful possession and enjoyment of the suit schedule lands and hence requested to provide police protection to the said lands in question.

It is humbly submitted that when the Civil Suit is pending consideration before the Hon'ble Court and there are no specific directions to the respondent police to provide any police protection to the lands in question, it is very difficult for the respondent police at this stage, to provide protection to the lands of the petitioner herein.

It is pertinent to note that it is always open for the petitioner to make an application before the concerned Hon'ble Court where at the Civil Suit in O.S.No.27 of 2012 pending adjudication seeking police protection and if any interim orders are passed to the respondent police, certainly this respondents will provide protection to the subject lands of the petitioner herein.

It is pertinent to submit that the petitioner unnecessarily involved the respondent police into his personal and civil disputes. If the petitioner made the persons who alleged to have been interfering into his lands in question as proper party respondents to this writ petition, the real facts would have come to light. Non-joinder of necessary parties, this writ petition is liable to dismissed in limini on this ground. Instead of availing alternative remedies, the petitioner filed the present writ petition.”

6. The information available before this court manifestly discloses that the suit in O.S.No.27 of 2012 filed by the petitioner herein is pending consideration before the court of the Junior Civil Judge, Chennur and the application vide I.A.No.94 of 2012 filed by the petitioner herein for temporary injunction under the provisions Order XXXIX Rule 1 of CPC is also pending consideration before the said Civil Court. As rightly pointed out by the learned Government Pleader by reiterating the written instructions furnished by the Superintendent of Police, the petitioner herein can approach the court of Junior Civil Judge, Chennur and pursue I.A.No.94 of 2012 filed by him for grant of temporary injunction against the defendants in the suit.

7. Therefore, without expressing any opinion on the merits and demerits of the issue, this court deems it appropriate to keep it open to the petitioner herein to pursue I.A.No.94 of 2012 in O.S.No.27 of 2012 before the court of Junior Civil Judge, Chennuru. It is needless to observe that the court of Junior Civil Judge will make an effort to dispose of I.A.No.94 of 2012, as expeditiously as possible, preferably within four weeks from the date of receipt of copy of this order.

8. Subject to the above, the Writ Petition is disposed of. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

30th July, 2015

ss