

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.16504 of 2012

ORDER:

Heard learned counsel for the petitioners, Government Pleader for Revenue and learned counsel for respondent No.4. With the consent of all the parties, the main writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of respondent Nos.2 and 3 in issuing the impugned Memo in Rc.No. Pr.Dt.02.05.2012 dated 14.05.2012 restraining the petitioners and their men from entering into their land admeasuring Ac.5.18 gts., in Sy.No.54, Ac.4.20 gts., in Sy.No.309, Ac.4.26 gts., in Sy.No.323 and Ac.14.00 gts., in Sy.No.303/2/115/A, total Ac.42.24 gts., comprising single plot situated at Sampath Nagar Village, Gangaram Grampanchayat, Tekulapally Mandal, Khammam District, as illegal and arbitrary; and consequently set-aside the same.

The averments in the affidavit filed in support of the writ petition disclose that petitioner No.1 claims to be owner and possessor of the land admeasuring Ac.5.18 gts., in Sy.No.54, Ac.4.20 gts., in Sy.No.309, Ac.4.26 gts., in Sy.No.323 and Ac.14.00 gts., in Sy.No.303/2/115/A, total Ac.42.24 gts., comprising single plot situated at Sampath Nagar Village, Gangaram Grampanchayat, Tekulapally Mandal, Khammam District, as she acquired the said property towards pasupu kumkuma. Her name was also entered in the revenue records

including pahanies from the year 2009. The Revenue authorities also issued pattadar pass book and title deed in favour of petitioner No.1 vide patta No. 872. It is stated that the land originally belongs to one Kondapalli Gopal Rao and he enjoyed absolute rights over the land from the year 1917. After his demise, his legal representatives succeeded to the same and it is under possession and cultivation of different persons. It is stated that respondent No.4 is no way concerned with the petitioner's land and gave a false complaint before respondent No.1, who referred the same to respondent No.2 for conducting enquiry. Respondent No.2 without issuing any notice and without conducting any enquiry directed respondent No.3 to pass order which lead to passing of the impugned order.

Learned counsel for the petitioners mainly submits that the order under challenge is passed by respondent No.3 without any authority. It is stated that he has no right to prevent the petitioners or third person or even a stranger in entering the land. It is stated that at the most the Mandal Revenue Officer basing on the information given by the police or by any authority can initiate proceedings under Section 145 or 107 Cr.P.C.

On the other hand, counsel for respondent No.4, filed his counter stating that respondent No.4 has nothing to do with the issue concerned and the allegations made that he is interfering with the possession and enjoyment of the petitioner over the property are all false and without any basis.

A perusal of the order under challenge would clearly show that the order is as vague since it does not indicate the extent of land and also the survey number which is subject matter of dispute. A blank order has been passed by respondent No.3. In

the subject of the order it is mentioned that “Land Disputes – Tekulapalle Mandal, Gangaram Village Vangala Jagannadham vs. Kondapalle Chaitanya, Chamedi Mella Rama Narasayya, Nimmanagatti Venkanna”. In the body of the order neither survey number nor the extent of land is mentioned. Apart from that the order does not indicate under what provision of law he has directed the parties not to enter into the land till the dispute is resolved. In fact, there is no material before the Court showing the existence of dispute before any court. Having regard to the above circumstances, the order under challenge is set-aside.

Accordingly, the writ petition is allowed. No order as to costs. Miscellaneous Petition, if any, pending in this Civil Revision Petition, shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

16.09.2015
gkv