

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 24122 of 2011

ORDER:

-
-

Heard learned counsel for the petitioner, learned Government Pleader for Revenue appearing for the respondents 1 and 2 and learned counsel for the 3rd respondent. With the consent of the parties, the writ petition is disposed of at the admission stage itself.

The case of the petitioner is that he is the owner and possessor of the land admeasuring Acs.6.07 cents in Survey Nos.33/2 and 33/33 situated at Jambhuldari Village, Wankidi Mandal, Adilabad District, and after conducting an enquiry, the 1st respondent issued pattadar passbook and title deed in his favour. It is stated that the petitioner is eking out his livelihood by doing cultivation for the last 35 years. While things stood thus, recently the 1st respondent is said to have come to the land and started surveying the land, without following the due process of law. When the petitioner objected to the same, the 1st respondent is alleged to have threatened him of taking possession of the land by police force. Hence, the present writ petition.

A counter came to be filed by the 1st respondent denying the allegations made in the writ petition. It is stated that on 13.06.2011 one Athram Shankar filed a petition seeking handing over of the possession of land in Survey No.25 situated at Jambuldari Village. As the land to an extent of Acs.7.00 was assigned to the said applicant in a land ceiling case No.A/921/80 dated 15.10.1980, a file was opened for enquiry. It is also stated that there is a dispute with regard to possession of land between the petitioner herein and the applicant since long time and that when the above case was due for demarcation and handing over of possession, it is presumed by the

petitioner that he may lose extra land under his possession. S.No.25 and S.Nos.33/2 & 33/33 being adjacent, there is possibility of overlapping of area possessed by the applicant and the petitioner. While so, on 21.06.2011 the petitioner applied for demarcation of land admeasuring Ac.0.07 cents in S.No.33/2 and Acs.16.00 in S.No.33/33 by paying the requisite fee and when the petitioner was asked to produce the original title deeds for the purpose of demarcation of the land, the present writ petition came to be filed. It is stated that the application of the petitioner is still pending due to standing crop and rainy season and giving of prior notice to the adjacent cultivators and owners of the land is also still pending. In view of the above, the claim of the petitioner is premature.

As seen from the counter filed by the 1st respondent, the application of the petitioner with regard to the demarcation of land is still pending consideration and no notice was given either to the cultivators or the owners of the land. Pending completion of such proceedings, it is not proper for the respondent authorities to take any coercive action against the petitioner who claims to be in possession of the land in S.Nos.33/2 and 33/3 for the last 35 years.

Having regard to the circumstances stated above and without going into the merits of the case, the Writ Petition is disposed of, directing the respondents not to dispossess the petitioner from the land admeasuring Acs.6.07 cents in Survey Nos.33/2 and 33/33 situated at Jambhuldari Village, Wankidi Mandal, Adilabad District, without following the due process of law, more so, when the application for demarcation is still pending consideration. There shall be no order as to costs.

Consequently, miscellaneous petitions pending if any in the writ petition shall stand dismissed.

JUSTICE C. PRAVEEN KUMAR

31st August, 2015
cbs

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 24122 of 2011

31st August, 2015

cbs