

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.19162 of 2011

Date: 16-09-2015

Between:

Yerragangu Manjula and another

.... Petitioners

AND

The Tahsildar, Ananthapur Mandal, Ananthapur

District and 2 others

.... Respondents

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.19162 of 2011

ORDER:

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Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue. With the consent of both the parties, the writ petition is heard at the stage of admission itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the 1st respondent in directing the 3rd respondent to give protection to the 2nd respondent vide his proceedings in Rc.No.624/2011/B, dated 21-06-2011, as illegal, arbitrary and violative of principles of natural justice.

The order under challenge dated 21-06-2011 shows that one V. Venkata Subbaiah, filed a petition before the Tahsildar, Ananthapur stating that his son

V. Prabhakar Chowdary, Ex-Municipal Chairman, Ananthapur has purchased land in Survey No.119-2D admeasuring Ac.4.98 cents of land in Kandukuru village along with other lands. It is stated that as his son was busy in politics, he executed a registered General Power of Attorney in his favour on 21-12-2010 vide Document No.29/BK4/2011, dated 12-01-2011. It is also stated that the power of attorney holder remitted challan for Rs.1,81,440/- towards fee for conversion of agricultural land into non-agricultural purposes for laying a plan for house sites for sale. It is further stated that the power of attorney holder obtained approval for the Layout for house sites from the Regional Deputy Director, Town and Country Planning duly relinquishing his right over his land to an extent of Ac.2.00 acres for funeral communal needs of the village and for laying roads in the proposed house sites. It is further stated that as per the Rules. Balance of land to an extent of Ac.2.98 cents was left for him to sell the same as house site plots. It is further stated that when the said Venkata Subbaiah applied for demarcation of his field boundaries, an endorsement was made stating that after getting the orders from the Civil Court, Ananthapur, his request for the same will be complied with. The Additional Senior Civil Judge, Ananthapur, after perusing the record passed an interim injunction in favour of Venkata Subbaiah, the power of attorney holder, restraining the writ petitioners herein from interfering with peaceful possession and enjoyment of the land. It is further stated that by enclosing the said interim order, the 2nd respondent herein sought permission for police protection to safeguard his interest on the land in Survey No.119-2D of Kandukur village and on an apprehension that the writ petitioners are interfering with the sale of house sites, having due regard to the circumstances and to give due respect to the verdicts of the civil court, impugned order came to be passed. Challenging the said proceedings, the present writ petition is filed.

Learned counsel for the petitioner would submit that the Mandal Revenue Officer, Ananthapur has no power or authority to order police protection to the respondents. He stated that if there is any dispute with regard to title and possession of the property and if there is a law and order problem, the Mandal Revenue Officer ought to have initiated the proceedings under Section 144 Cr.P.C.

On the other hand, learned standing counsel for the respondents submits that

the order does not in any way indicate giving police protection to the petitioner. He submits that pursuant to an application made by the 2nd respondent seeking survey, the same was sent to the Tahsildar for police protection. While dealing with the said application, the Tahsildar requested the concerned police to arrange police protection for giving effect to the orders of the civil Court passed in I.A.No.9 of 2011 in O.S.No.4 of 2011.

It is to be noted that basing on the interim injunction granted by the Civil Court in I.A.No.9 of 2011 in O.S.No.4 of 2011 in favour of the 2nd respondent, the 2nd respondent made application to the 1st respondent for safeguarding his land in Survey No.119-2D from the writ petitioners against whom he obtained interim injunction, but the 2nd respondent, without having any power or authority in granting police protection, requested the 3rd respondent for giving police protection for safeguarding his land, which is not permissible in law. But the order of the Civil Court does not indicate giving of any police protection. More so, no rule or provision has been brought to the notice of the Court under which the 1st respondent has authority for granting police protection. In the absence of any specific authority, the 1st respondent could not have granted police protection.

In view of the circumstances stated above, the proceedings in Rc.624/2011(B), dated 21-06-2011 passed by the 1st respondent-Tahsildar, Ananthapur granting police protection for complying with the orders of the Civil Court are set aside, leaving it open to the 2nd respondent to approach the competent civil Court seeking the remedy available under the law, if the orders of interim injunction dated 20-01-2011 passed in I.A.No.9 of 2011 in O.S.No.4 of 2011 by the Principal Senior Civil Judge, Ananthapur are violated.

Accordingly, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

C. PRAVEEN KUMAR, J

Date: 16-09-2015

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