

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

WRIT PETITION No.29828 of 2015

ORDER:

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

“to issue writ of Mandamus to declare the action of the respondents 1 to 4 in not taking appropriate action against R5 includes arrest and completing the investigation in Cr. No. 59/2013 and Cr. No. 67/2013 on the file of Vidavalur Police Station thereby restraining R5 who is interfering with the Right to Life of Petitioners by illegal means and not providing protection to petitioners as illegal, high handed, discriminatory and violative of Articles 14, 21 and 300-A of the Constitution of India and consequently direct the respondents 1 to 4 to arrest R5 forthwith, and complete the investigation in Cr. No. 59/2013 and Cr.No. 67/2013 on the file of Vidavalur Police Station thereby restrain R5, from the interference of petitioners Right to Life by any illegal means apart from taking other actions available under law including by opening rowdy sheet, etc.,”

Heard Sri Punna Rao, learned counsel for the petitioners and learned Government Pleader for Home for respondents, apart from perusing the material available before this Court.

Today, when the matter is called, written instructions, dated 28-09-2015 furnished by the Station House Officer, Vidavalur Police Station, SPSR Nellore District have been placed on record by the learned Government Pleader for Home and the said instructions read as under:

“It is respectfully submitted that one Avula Giri Babu here in lodged complaint with the respondent Police against one K.J.Reddy and two others stating that they are criminally trespassed into the Patta land with an extent of AC.4.98 cents in Survey NO 59/1 & 59/2 of the Avula Kistamma/2nd petitioner here in and also in the night time clandestinely and dug out the land with an extent of 20 cents with the assistance

of J.C.B and excavated the mud at a depth of 7 feet and committed theft of 400-500 trucks of mud and shifted the mud their newly constricting road an cause loss to the complainant to tune of 2 laks hence requested to take necessary action.

It is further submitted that on 02.10.2013 one Avula Yadagiri/husband of the 3rd petitioner lodged complaint with regard to the same land against 5th respondent Vayila Ramanaiah stating that he trespassed his land and threatened with dire consequences, hence requested to take necessary action.

Basing on the above complaint the case was registered in Crime NO: 59/2013 U/s sec. 447,379 r/w 34 IPC and Crime No:67/2015 U/s.447,506 r/w 34 IPC of Vidavaluru Police station, SPSR Nellore district and the investigation officer took up the investigation. During the course of investigation the respondent police made requisition to the MRO Vidavaluru with a request to issue the owner ship of the above said land. After receiving the same the MRO Vidavaluru conducted Survey and issued the later on 07.11.2013 stating that one Cheruvu is located in the above said land.

It is further submitted that after receiving the proceedings of the MRO, Vidavaluru the Deputy superintendent of Police Nellore issued Proceedings Vide CNO 222/Ref-SDO NR/2014 dated 31.05. 2014 and CNO 223/Ref-SDO-NR/2014 dated 31.05.2014 to refer the above said cases are false.

On 23.09.2015 the notice served to the complainants and prepared a final report and sent to the Honorable Additional Judicial Magistrate of 1st class Kovur through the Inspector of Police Kovur, requesting the Honorable Magistrate to treat the cases as false and to issue RCS Number.”

On noticing the above said instructions, learned counsel for the petitioners has requested this Court to record the said instructions and dispose of the writ petition with a liberty to the petitioners herein to proceed in accordance with the provisions of Cr.P.C.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. There shall be no order as to costs.

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

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September 28, 2015

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