

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

-
W.P.No.28230 of 2011

ORDER:

The sum and substance of the grievance of the petitioner is that despite the decree passed by the Court of the Principal Junior Civil Judge, Punganur in O.S.No.58 of 2000 dated 29.12.2004 as confirmed by the Court of the Senior Civil Judge, Punganur in A.S.No.17 of 2006 dated 4.4.2008, the respondent authorities are interfering with the possession and enjoyment of the petitioner in respect of the subject property and not extending protection to the petitioner and the property.

2. Heard Sri P.Gangaiah Naidu, learned senior counsel, representing the counsel on record for the petitioner and the learned Government Pleader for Home, appearing for the respondents apart from perusing the material available on record.

3. According to the petitioner, his grand father Thimma Reddy purchased the subject property from Audigadu S/o Vaddigurivi Boyudu of Basavaraju Kandriga by way of registered sale deed dated 21.2.1925. Earlier petitioner instituted O.S.No. 58 of 2000 on the file of the Court of the Principal Junior Civil Judge, Punganur for declaration and injunction and the said Court decreed the suit on 29.12.2004 and the said decree reads as under:

- “(1) That the plaintiffs’ right and title over the Item Nos.1 and 2 of the suit schedule properties, be and hereby is declared.
- (2) That the defendants, their men and agents be and hereby are restrained by means of permanent injunction from in any way interfering with the peaceful possession and enjoyment of the plaintiffs over Item Nos.1 to 5 of the suit schedule properties”.
- (3) That the defendants do pay to the plaintiffs a sum of Rs.8,025-00 having the suit costs”.

4. As against the said decree, the respondent authorities preferred A.S.No.17 of 2006 on the file of the Court of the Senior Civil Judge, Punganur and the said appeal was dismissed for default on 4.4.2008.

5. In the above background, the grievance of the petitioner is that despite the same, the respondent authorities are interfering with his possession and enjoyment in respect of the subject property.

6. On the contrary, it is the case of the respondent authorities that they filed applications vide I.A.Nos.258 and 259 of 2009 for condonation of delay and for restoration of the said appeal which was dismissed for default.

7. During the course of hearing, it is submitted by the learned Senior Counsel that the said applications I.A.Nos.258 and 259 of 2009 were also dismissed by the learned Senior Civil Judge, Punganur and the said fact is not disputed. Therefore, the said justification sought to be pressed into service by the respondent authorities is no longer available to them. In the considered opinion of this Court, so long as the decree passed by the competent Civil Court remains to be in force, the respondent authorities cannot interfere with the possession and enjoyment of the petitioner herein.

8. With regard to the relief of police protection sought in the writ petition, it is brought to the notice of this Court that basing on the complaint, police registered a case in Cr.No.111 of 2011 under Sections 447, 427, 506 IPC read with Section 34 IPC on 29.10.2011 against (7) individuals on the file of Peddapanjani Police Station and the police took up investigation. Therefore, the Police are required to proceed with further investigation in the matter.

9. With the above observations, the writ petition stands disposed of. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 30.11.2015
DA

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W.P.No.28230 of 2011

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Between:

A.Dwarakanatha Reddy

... Petitioner

and

State of A.P., rep. by the
District Collector, Chittoor,
Chittoor district and 2 others.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 30.11.2015

SUBMITTED FOR APPROVAL:

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THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

1. Whether Reporters of Local Newspapers

May be allowed to see the Judgment?

Yes/No

2. Whether the copies of judgment may be

Marked to Law Reporters/Journals?

Yes/No

3. Whether Their Lordship wish to see the

Fair copy of the judgment?

Yes/No