

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.2323 of 2015

ORDER:

This writ petition has been filed by the petitioner alleging that respondent Nos.3 and 4 without initiation of proceedings visiting the petitioner's land and threatening him to dispossess claiming that the land, which is in occupation is the Government Land.

2. The case of the petitioner as pleaded is that the petitioner came to purchase the land by way of registered sale deed bearing No.5043 of 2014 on 27.11.2014 and the same is registered with the Joint Sub-Registrar, Stone Housepet of Prakasam District. It is further claimed that the land is ancestral property of the vendors of the petitioner by name Adusumalli Rama Rao, who in turn was issued pattadar passbook bearing No.284168 on 05.11.2010 with patta No.274. The said Adusumalli Rama Rao out of his financial necessity intended to alienate the property, which he acquired from the original owners and offered the same to the petitioner for valuable consideration. The petitioner to ensure the proper title to him desired the original owners, who were the vendors of A.Rama Rao also to join as executants and they in turn, executed the sale deed in favour of the petitioner to their Power of Attorney. As such, the petitioner submits that without initiating any proceedings under law, the official respondents are interfering with the agricultural operations and threatening the petitioner with dire consequences.

3. The matter was taken up for admission on 06.02.2015 and was adjourned to 13.02.2015 to enable the learned Assistant Government Pleader for Revenue [A.P.] to get instructions. Once again on 13.02.2015, the same was directed to post on 27.02.2015 to give one more opportunity to the learned Assistant Government Pleader. Today, when the matter came up for hearing, by placing reliance on

the fax message received from the Tahsildar, P.C. Palli Mandal, Prakasam District, the learned Assistant Government Pleader submits that in revenue records the land is recorded as 'Gayalu' of Vepagumpalli Village, PC Palli Mandal, Prakasam District. Necessary steps are being taken to issue notices under Land Encroachment Act, 1905 and the respondents would be taking steps to evict the petitioner.

4. Having Considered the rival contentions of the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue, it is clear that as on today there are no steps initiated against the petitioner to evict the petitioner from the land to an extent of Ac.43-08 cents situated in survey Nos.23/2 and 21 of Chintakampalli Gram Panchayat of Pedacherlopalli Mandal, Prakasam District.

5. In the instructions submitted by the Tahsildar, having received the copy of the affidavit filed by the petitioner contending the allegations that without authority of law, the respondents are interfering with the possession and threatening the petitioner has not been denied. In that view of the matter, considering the settled legal position that even an encroacher can be evicted by following due process of law, the interference of the 4th respondent in the petitioner's property is plainly illegal. Further, it is a specific case of the petitioner that petitioner and petitioner's vendors having legal title and petitioner acquired the land through a valid registered sale deed, gives him protection from summary eviction. Till such time, he is found to be and declared to be an encroacher of the Government land without there being any such order and proceeding traceable to law, it is needless to say the petitioner's possession and enjoyment over the property cannot be interfered with by the revenue officials by merely visiting the place of cultivation of the petitioner. Such acts of the revenue officials would amount to causing nuisance and inconvenience to the peaceful life of a citizen. Citizens like the petitioner would be entitled to initiate both civil and criminal action against the individuals, who are visiting

the place of the petitioner by initiating appropriate proceedings for trespass and damages for causing nuisance. The right of the citizen to prosecute the officials for their individual acts of disturbing the peace of the citizen cannot be curtailed. In the rural areas, a very visit of an official causes great amount of stress and anxiety on an individual. Of late, a large number of cases being filed with the allegation that the official respondents without initiation of legal proceedings and without passing any orders are visiting and threatening the individuals of dispossession and interference.

6. In that view of the matter, it is desirable that the 1st respondent would issue necessary administrative instructions to the officials, particularly, ground level officials like Mandal Revenue Officer, Tahsildar/MRI that such action of the officials threatening the citizens would be in breach of the law and would amount to interference with the constitutional rights of the citizen and in which event, the State would not come to their aid to protect their illegal activities. This Court hopes that necessary steps would be taken by the 1st respondent to sensitise the officials concerned and also dire consequences, which they would need to face before the Court of law for unlawful interference with the individual citizens' rights.

7. In the facts and circumstances of the case, considering the fact that no proceedings, as such, initiated as on today, this writ petition could be disposed of with a direction that the petitioner's peaceful possession and enjoyment of the property in survey No.23/2 and 21 of Chintakampalli Gram Panchayat of Pedacherlopalli Mandal, Prakasam District to an extent of Ac.43-08 cents, shall not be disturbed without following due process of law. No order as to costs.

Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

CHALLA KODANDA RAM, J

Date: 02.03.2015

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