

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 18254 of 2011

ORDER:

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Heard learned counsel for the petitioner and learned Government Pleader for Revenue. With the consent of both the parties the present Writ Petition is disposed of at the admission stage itself.

The present Writ Petition came to be filed seeking to declare the action of the respondents in threatening to dispossess the petitioner from thatched house without notice or without following due process of law as illegal and arbitrary and against the principles of natural justice.

The petitioner claims to be in possession of 30 square yards of land situated at Purushothampuram, Pendurthi Mandal, Visakhapatnam District, since more than fifteen years. While things stood thus, the third respondent warned the petitioner to remove the thatched shed with immediate effect stating that the said land is Government land. Challenging the action of the third respondent in threatening to dispossess the petitioner, the present Writ Petition came to be filed.

On 05.11.2011, this Court while issuing *rule nisi*, directed the third respondent not to interfere with the possession of the petitioner in respect of the house in question, without following due process of law. Subsequently, one Manchili Sarada Devi filed W.P.M.P (SR).No.154469 of 2013 in W.P.No.18105 of 2012 seeking to implead herself as fourth respondent in that Writ Petition. According to her, she is the owner of the land admeasuring 168.88 square yards in Survey No.161/3 of Vepagunta Village, Pendurthi Mandal, Visakhapatnam District, having obtained the same under the registered gift settlement deed No.1766/2011, dated 15.06.2011. It is stated in the affidavit filed in support of the above said M.P. that the executant of the said deed has obtained 393 square yards of site under two registered documents of the years 2002 and 2003 and out of the said site an extent of 225 square yards have been sold in the year 2007 to the third parties under registered document and the remaining extent of 168.88 square yards was gifted to the implead petitioner. It is stated that the property in Survey No.161/3 is classified as zeroity land and is not a Government or poramboke land. It is stated that a certificate was also issued by Simhachala Devasthanam stating that the property in Survey No.161/3 does not belong to Devasthanam. The averments in paragraph No.5 of the affidavit filed in support of the above said implead petition therein would show that one S.Ramana claiming himself to be in possession of part of the property, filed the present Writ Petition through his sister-in-law Govindamma, and also filed W.P.Nos.9749 and 18105 of 2012 through his wife and one Shaik Aleema respectively contending as if they are in possession of part of the property admeasuring 168 square yards in Survey No.161/3 and sought for a direction to the revenue department to consider their case. It is alleged that in none of the Writ Petitions, the petitioners have shown Manchili Sarada Devi or her husband Suryanarayana Murthy as a party, knowing fully well that they are the owners of the property admeasuring 168 square yards.

Since there is a dispute between the parties as to whether it is a Government land or a private land, this Court directed the learned Government Pleader for revenue to find out as to the nature of the land.

Learned Government Pleader, on instructions, submitted that the land which is the subject matter of dispute in the present Writ Petition, is a private land. That being the position, the question of issuing direction to the respondents not to interfere with possession does not arise. The remedy if any lies elsewhere and not under Article 226 of the Constitution of India.

Hence, I see no grounds to entertain this Writ Petition and the same is dismissed, leaving it open to the petitioner to avail the remedies available under law, if any. No costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

22.09.2015
vhb

JUSTICE C. PRAVEEN KUMAR