

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.18481 of 2011

ORDER:

-

Heard learned counsel for the petitioner, learned Government Pleader for Revenue and perused the record.

With the consent of both the parties the present writ petition is disposed of at the admission stage.

The present writ petition came to be filed seeking issuance of a writ of mandamus declaring the action of the respondents in forcibly demolishing/dismantling the buddy shop of the petitioner situated in his land admeasuring 228 square yards in Sy.No.61 of Anjaneyanagar, Ramanaiahpetta, Kakinada, East Godavari District, attempting to lay road through the said property and thereby forcibly dispossess him without issuing any notice, as illegal, arbitrary and violative of the orders passed by this Court in W.P.No.22599 of 2010.

The averments in the affidavit filed in support of the writ petition are as under:

The petitioner claims himself to be the absolute owner and possessor of the land admeasuring 288 square yards in Sy.No.61 of Ramanaiahpetta. It is stated that he purchased the said land through registered sale deed dated 14.05.1975 from Kamala Venkataratnam for a consideration of Rs.2,800/-. According to him, this property is part of an extent of 5250 square yards which was purchased by his vendor from Durisetti Appa Rao under a registered sale deed dated 04.09.1965. Ever since the purchase, the petitioner is in continuous possession and enjoyment of the same by paying requisite taxes. He raised a thatched hut in it, erected a buddy shop and carrying on pan shop business. It is stated that the petitioner made an application to the third respondent seeking approval of his proposed constructions in

the said land which was approved by the third respondent vide BL10/78-79 dated 08.06.1978. It is stated that in the year 1998 some unscrupulous persons illegally dug a two feet width drain through the land, on which the petitioner filed O.S.No.72 of 1999 on the file of the II Additional Junior Civil Judge, Kakinada seeking mandatory injunction and remove the said drain. However the same was dismissed and an appeal filed against the same was also dismissed. It is further stated that in the year 2010, when there was an attempt to forcibly evict him from the land, the petitioner filed W.P.No.22599 of 2010 seeking issuance of a writ of mandamus against such attempt of forcible dispossession without notice. Without going into the merits of the case this Court disposed of the writ petition stating that the petitioner is in possession of the land and that he should not be evicted without following due process of law. It is stated that when the electricity connection was disconnected to the property of the petitioner, the petitioner filed W.P.No.7733 of 2011 questioning the said disconnection and the same is pending. It is further stated that on 18.06.2011 the respondents came with a tractor and trailer and dismantled the buddy shop forcibly. The Ward Member by name Kudupudi Poornavenkata Balaji influenced the panchayat officials and pressurized them to lay a road through the property of the petitioner. It is averred that the respondents dumped gravel and other material near by site and at any time they may lay road in which event the petitioner will be permanently deprived of his property. Hence, the writ petition.

At the time when the matter is taken up for hearing, the learned Government Pleader on instructions submits that the allegations mentioned in the affidavit filed in support of the writ petition are all false and invented for the purpose of this case. According to him, the petitioner was given a notice on 10.06.2011 under Section 53 of the Andhra Pradesh Panchayat Raj Act by the third respondent. As there was no response to the notice, the third respondent along with second

respondent proceeded to the said plot and removed the buddy shop on 18.06.2011. He further submits that as on today a road and also a drainage lane is being laid through the said site. It is submitted that even before an order was granted by this Court on 01.07.2011 the authorities have laid the road and also the drainage pipe line through the land which is subject matter of dispute in the present writ petition. In view of the above, he submits that the request which is sought for cannot be granted.

Learned counsel for the petitioner mainly submits that the petitioner was in possession of the land and he was forcibly evicted by the respondents without issuing any notice.

It is to be noted that if really the action of the respondents is contrary to the earlier orders passed by this Court and if the writ petitioner is the absolute owner of the said land, he should have approached an appropriate civil Court seeking possession by producing all the documents establishing his title. As things stand today, the respondents are claiming the said land is a government land as per the revenue records and the petitioner has high handedly occupied the same. Apart from that the prayer which the petitioner has sought for in this writ petition is to issue a writ of mandamus declaring the action of the respondents in removing buddy shop and their attempt to lay a road, as illegal and arbitrary. The material on record discloses that much prior to the filing of the writ petition, the authorities removed the buddy shop and also laid a road and drainage pipe line through the said land. Hence, no relief can be granted to the petitioners. It is always open to the petitioner to approach the appropriate forum seeking redressal of his grievances by placing all the documentary evidence available with him.

With the above direction, the writ petition is disposed of. No order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed.

C. PRAVEEN KUMAR, J

14.08.2015

gkv