

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.17531 of 2011

ORDER:

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Questioning the action of respondent No.1 (Project Officer, ITDA), Parvathipuram, Vizianagaram in interfering with the peaceful possession and enjoyment of the immovable property admeasuring 720.6 square yards in survey No.553 (old survey No.85) situated at ward No.14, Block No.27, Goods Shed Road, Parvathipuram, Vizianagaram District, the present writ petition is filed.

The brief facts of the case are as under:

The petitioner is the absolute owner of the property admeasuring 720.6 square yards in survey No.533 (old survey No.85) situated at ward No.14, Block No.27, Goods Shed Road, Parvathipuram, Vizianagaram District. It is stated that the mother of the petitioner parted the above property in favour of the petitioner through gift settlement deed and she obtained the same along with the property adjacent to the immovable property in 'lis' by way of registered sale deed bearing document No.528/1981 from her owner, in accordance with law. It is stated that the 1st respondent while expanding his hostel adjacent to property of petitioner, along with respondents 2 and 3 made a propaganda that the entire area, in and around Parvathipuram is a 'Grama Kantam' including the property in 'lis' and no one has any right or title over the said properties. The petitioner reported the matter to the 4th respondent-District Collector, Vizianagaram but he failed to take note of the same. It is further stated that on 18-06-2011, an agent of

the 1st respondent by name Srinivas, who is warden of his hostel, along with respondents 2 and 3 came to the vacant site of petitioner and damaged a portion of compound wall constructed by him. On that the petitioner gave report in Parvathipuram police station on 18-06-2011, but police failed to take action on the ground that the dispute is

in civil nature. It is stated that the 1st respondent under the guise of expansion of his hostel is trying to grab the property of petitioner. As neither the mother of the petitioner nor the petitioner was served with any notice by any of the respondents, before initiating the action, the present writ petition is filed.

Heard counsel for the petitioner and the learned counsel for the respondents.

Though various contentions are raised by the learned counsel for the petitioner, but the counsel restricts his prayer seeking a direction to the respondents not to interfere with the property of petitioner except following the due process of law. According to him, though the petitioner is in possession of the property, the 1st respondent demolished the compound wall of the petitioner without giving any notice on the ground that it is a 'Grama kantam' land.

A counter came to be filed by the 1st respondent denying the averments made by the petitioner. It is stated that the property as claimed by the petitioner through the gift settlement deed from her mother is not the part of the property covered by the Document No.528/1981. The property as claimed by the petitioner is a vacant site belonging to the Government, which is the western boundary to the property covered under Document No.528/1981. The petitioner and her mother colluded together and brought into existence the gift settlement deed vide document No.4172/2006, for which the donor has no title and is trying to occupy the government site. It is further stated that the mother of the petitioner purchased an old house with vacant site through the document No.528/1981, which is in rectangular shape. The northern boundary as mentioned in the said sale deed was the house of Lanka Harinath with a common passage portion of about 9 feet and it was purchased by the father of the petitioner in which a hospital was constructed. The 9 feet width common passage

is the northern boundary in the document No.528/1981, is the 1st item of gift settlement deed. The property purchased by the mother of the petitioner under above document can be extended towards east beyond 9 feet with common passage. Apart from that, the length mentioned in the gift deed is about 234 feet which is false. It is stated the property tax paid by the mother of the petitioner does not confer any title over the property as the survey No.553 is classified as 'Grama Kantam' land as per the records. The respondents never visited the property in /is and damaged the compound wall as alleged by the petitioner. It is stated that the compound wall was not constructed by the father of the petitioner and it is the compound wall of the government building, wherein a Tribal Welfare (Ashram) English Medium School-cum-Hostel was being run by ITDA, Parvathipuram. About 20 years back it was allotted to ITDA and it is in possession and enjoyment of the same. The petitioner or her predecessor in interest never claimed any right over the disputed wall and now on the basis of settlement deed executed in her favour in the year 2006 is claiming right over the disputed wall by making false allegations made against the 1st respondent. Hence prayed to dismiss the petition.

Without going into the merits of the case and having regard to the circumstances stated above, the present writ petition is disposed of by directing the 1st respondent not to interfere with the property of the petitioner admeasuring 720.6 square yards in survey No.553 (old survey No.85) situated at ward No.14, Block No.27, Goods Shed Road, Parvathipuram, Vizianagaram District, without following due process of law. As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

16-07-2015
Nvl

