

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 19928 of 2011

ORDER:

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Heard learned counsel for the petitioners and Government Pleader for Revenue. With the consent of both the parties, the main writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of a writ of mandamus declaring the action of the second respondent in trying to dispossess the petitioners from their respective lands and houses situated at Tirpelly locality, Adilabad Town, Adilabad District by taking over the possession under the guise of Form-V notice issued by the second respondent and without passing any orders on the representation of the petitioners dated 30.05.2011 submitted to the second respondent as illegal, arbitrary and abuse of process of law; and consequently direct the respondents not to dispossess the petitioners from their respective lands and houses.

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

The petitioners are residents of Tirpelly Locality and they are living by constructing pucca houses in the land admeasuring 9341 square feet at Tirpelly Locality, Adilabad Town, adjacent to Door No.4-3-65 corresponding to 2-5-256. It is stated that the petitioners along with their family members are residing there since long time by constructing pucca houses. While things stood thus, the second respondent issued Form-V notice stating that he has to take possession from Mohd. Wijahat Ali @ Fasi and has to deliver the possession to Smt. Safia Begum. In the said notice it was

mentioned that the alleged land is with a house bearing No.4-3-65 corresponding to 2-5-256 admeasuring 1114 square feet along with open land of 9341 square feet. It is averred that on enquiry the petitioners came to know that the second respondent issued Form-V notice basing on the judgment passed by the Supreme Court in Civil Appeal No.10664 of 2010, dated 16-12-2010 arising out of S.L.P. (C) No.21199 of 2007. It is stated that the petitioners are not the parties to the proceedings before the Supreme Court as well as before the Land Grabbing Court, as such the judgment cannot be used against the petitioners. Questioning the action of the second respondent in trying to dispossess the petitioners from the land, the petitioners filed the present petition.

On 15.07.2011 this Court while issuing notice before admission passed the following order:

“In view of the averment of the petitioners, the respondents may take possession of the building to the extent of 1114 square feet from Sri Wijahat Ali, but the petitioners may not be dispossessed in the process, as they are not parties to L.G.O.P., referred to supra.”

A counter came to be filed by the second respondent stating that pursuant to the orders of the Supreme Court in Civil Appeal No.10664 of 2010 the possession of 1114 square feet of built up house bearing No.4-3-65 corresponding to H.No.2-5-256 along with open site of 9341 square feet is already handed over to Smt. Safiya Bee on 19.07.2011 by conducting panchanama in the presence of panchas. By that time orders passed in W.P.No.19928 of 2011 dated 15.07.2011 were not received and that the petitioners submitted the said orders after handing over the possession of the property to Smt. Safiya Bee.

In view of the fact that the petitioners are dispossessed on

19.07.2011 itself and that one Smt. Safiya Bee is put in possession of the same, the argument of the learned counsel for the petitioners that the second respondent is trying to dispossess the petitioners from the land without following due process of law cannot be accepted. As stated earlier, the counter itself shows that possession was already handed over to one Smt. Safiya Bee and a panchanama was prepared while taking possession of the property.

Having regard to the facts and circumstances of the case, I see no merits in the writ petition and the same is accordingly dismissed. It is always open to the petitioners to avail the remedies, if any, available under law. No order as to costs.

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

**JUSTICE C. PRAVEEN
KUMAR**

25.08.2015
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