

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

WRIT PETITION No.10649 of 2011

Between:

D.K.Gangi Reddy

---Petitioner

And

The State of Andhra Pradesh, represented
By the District Collector, Chittoor District and others.

---Respondents

DATE OF JUDGMENT PRONOUNCED: 05-08-2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of Judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Ladyship/Lordship wish
to see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.10649 of 2011

ORDER:

Heard the learned counsel for the petitioner and the learned counsel for the respondents. With the consent of both parties the writ petition is disposed of at the admission stage.

The present writ petition is filed seeking issuance of Writ of Mandamus declaring the action of the 2nd respondent in interfering with the possession and enjoyment of the land admeasuring Ac.0-02 cents situated in Sy.No.384, Madumuru Village, PTM Mandal, Chittoor District with oblong hut bearing door No.1-1 (old No.1-9A) as illegal and arbitrary.

The petitioner herein claims to be the absolute owner of a house site admeasuring Ac.0-02 cents situated at Madumur Village, PTM Mandal of Chittoor District, having purchased the same under a registered sale deed dated 02-02-1996 for a valuable consideration. It is stated that the petitioner has been in possession of the same and electrical service connection was also obtained by the donee of the vendor of the petitioner. While things stood thus, one Shankar Reddy and K.Venkata Ram tried to interfere with his peaceful possession and enjoyment over the said property, for which the petitioner filed O.S.No.18 of 1996 seeking injunction. As the petitioner could establish his right and title over the said property, a decree came to be passed in his favour

on 27-07-98. It is further stated that while the 2nd respondent sought to change the classification of land and include the said property in the list of properties mentioned in Prohibitory Order Book (POB), the

petitioner protested it on the ground of jurisdiction to deal with the same. Pursuant to an unauthorized act of interference over the possession and enjoyment, the petitioner filed O.S.No.73 of 2001 before the Junior Civil Judge, Thambalpalle seeking declaration of title and also for consequential permanent injunction. Though the 2nd respondent contested the suit inter-alia stating that the property was being used for a communal purpose and hence recommended for entering the same in POB. The Revenue Divisional Officer, Madanapalle by his order dated 13-08-1996 included the said property in POB. It is further stated that though the 2nd respondent failed to prove that the land belongs to the Government and that there is no evidence either oral or documentary to prove the same, the 2nd respondent continued to interfere with the possession of the petitioner. It is stated that the petitioner has suffered a decree and he is in continuous possession and enjoyment of the property by constructing hut and has been residing there. Though the said land is repeatedly being used for religious purpose and it being a part and parcel of Gramakantam, the 3rd respondent has no right to disturb possession of the petitioner. It is averred that under the provisions of Section 55 of Panchayat Raj Act

(for short "the Act"), no property either by custom or has been administered for the benefit of villagers in common or the holders in common of the village land generally, shall vest in Grampanchayat and the same shall be administered by it for the purpose of villagers. As such, the source of power either to evict the person or possession of the land or to meddle with the property shall lie with the Grampanchayat alone and the 2nd respondent cannot usurp the powers of Grampanchayat under the guise of the nature of land in the occupation of petitioner being used for religious purpose. Under Section 98 of the Act, the Executive Authority alone is empowered to cause a notice to be served on the owner or occupier of any building

situated in the land vested in the Grampanchayat for removing or altering any projection or encroachment or obstruction. As such, it is said that the act of the

2nd respondent interfering with the property without sanction or authority of law lead to filing of the present writ petition.

The learned Government Pleader submits that the land in question being 'Gramakantam' land, the petitioner cannot be dispossessed without issuing notice. The learned Standing Counsel for Grampanchayat submits that notice was issued to the petitioner after filing of the present writ petition, for which he gave reply stating that he cannot be dispossessed on the ground that the matter is subjudice before this Court.

Having regard to the circumstances stated above, the writ petition is disposed of directing the respondent-authorities not take any coercive steps against the petitioner without following the due process of law. As a sequel thereto, Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

05-08-2015
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