

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.9533 of 2012

ORDER:

1. This Criminal Petition is filed seeking to quash the proceedings against the petitioners-A1 to A3 in C.C.No.1 of 2012 on the file of the Principal Sessions Judge, Warangal.

2. The case of the prosecution in brief is as follows:

On 10.9.2012 at 12.15 hours, the complainant-Tahsildar, Hanamkonda lodged a complaint stating that Village Revenue Officer, Hanamkonda reported basing on the report of the Assistant Director (Survey & Land Records) Warangal that he has inspected the Government land in Sy.No.849 situated in Hanamkonda village and noticed that A1 to A3, who are the sons of one Sudershan Rao, have illegally encroached the Government shikam land and constructed a compound wall about Ac.2.00 of land and started cultivating the same. It is also stated that the Joint Collector, Warangal has instructed the complainant to take criminal action against the petitioners under the Land Grabbing Act. Basing on the complaint, a case was registered against the petitioners in Crime No.358 of 2012 for the offence under Sections 447, 427 r/w 34 IPC and Sections 2 & 3 of the A.P. Land Grabbing Act. After completion of the investigation, charge sheet was filed against the petitioners and the same is numbered as C.C.No.1 of 2012.

3. Learned Counsel for the petitioners mainly contended that the witnesses cited by the prosecution are Tahsildar as well as the Village Revenue Officer and that their statements do not disclose any incriminating material against the petitioners herein. It is submitted that the 2nd respondent along with his staff came to the land in question and dismantled the compound wall and in that connection the

petitioners filed a civil suit against the 2nd respondent-Tahsildar and the same is pending adjudication. While placing reliance on the judgment of this Court in **State of A.P. and others Vs. Special Tribunal (Land Grabbing District Judge, Warangal) and others** ^[1]

the learned Counsel for the petitioners submitted that when Civil Remedies are available that too, when the petitioners are in possession of the land in question for a long time, initiation of criminal proceedings are bad in law.

4. Now, coming to the facts on hand, the fact that remains undisputed is that the petitioners filed a civil suit against the 2nd respondent for injunction and damages. Subsequent to the filing of the said suit, the present complaint was lodged. Further, it is not in dispute that the petitioners are in possession of the land in question.

5. When the civil suit is pending against the 2nd respondent in respect of the property involved in the present criminal proceedings initiated by the 2nd respondent and when the petitioners are in possession of the land in question, the initiation of the proceedings is not sustainable. Therefore, this Court is of the view that the proceedings in question cannot be maintained during the pendency of the civil suits and the same are liable to be quashed.

6. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioners-A1 to A3 in C.C.No.1 of 2012 on the file of the Principal Sessions Judge, Warangal. However, it is made clear that in case, the civil suit filed by the petitioners, ends against the petitioners, the 2nd respondent-authority is at liberty to take appropriate action against the petitioners herein.

RAJA ELANGO, J

Dated:3.7.2015

Nn

THE HON'BLE SRI JUSTICE RAJA ELANGO

-
-
-
-
-

CRIMINAL PETITION No.9533 of 2012

3.7.2015

Nn

[\[1\]](#) **2001(1) ALT 479 (D.B.),**