

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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WRIT PETITION No. 24716 of 2011

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ORDER:

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Highhanded action of respondent Nos.3 to 6 in granting permission for felling a seasoned tamarind tree aged about 100 years which was situated in the land of the petitioner, without issuing any notice to the petitioner is subject matter of challenge in the present writ petition. Three reliefs which are sought for in the present writ petition are as under:

- a. to conduct an enquiry about the high handed action of respondent Nos.3 to 6 in ordering permission for felling the tamarind tree situated in his private land, behind back of the petitioner.
- b. to file criminal cases against respondent Nos.4 and 5 for their high handed action for ordering permission for felling of tamarind tree vide their letter No.C/711/2011 dated 16.08.2011 issued by respondent No.5 pursuant to an application made by respondent No.4.
- c. to direct the respondents to pay an amount of Rs.5,00,000/- (Rupees five lakhs only) by way of compensation to the petitioner for felling the petitioner's seasoned Tamarind Tree aged about 100 years high handedly.

The petitioner claims to be owner of land admeasuring Ac.4.12 gts. in Sy.No.68 of Kottapalli Village, residential house and an open place adjacent to the residential house. The Mandal Revenue Officer is said to have issued pattadar pass book and title deed in respect of the land in Sy.No.68 of Kottapalli Village and the name of the petitioner was said to have been mutated in all the revenue records. The said land was subsequently transferred in the name of his daughter by name Umadevi by way of Gift deed No.6415 of 2006, dated 29.11.2006 and pattadar pass book and title deed came to be issued in favour

of his daughter. It is stated that the petitioner sold away 352 square yards of ancestral property to the third parties by way of Registered Sale deed. It is further stated that a seasoned Tamarind tree aged about 100 years was existing in 350 square yards of open land covered by Taktha No.17 which was fetching an annual income of Rs.5,000/-. While things stood thus, the petitioner shifted himself to Hyderabad and started staying along with his daughter at Rambagh. On 21.08.2011 he received information from his son-in-law that respondent Nos.4 and 5 have ordered for cutting the said tamarind tree and are selling away the wood for Rs.65,000/- to Saw Mill brokers by creating wrong entries in the revenue records. It is averred that while his son-in-law was interacting with respondent Nos.4 and 5, some brokers loaded the wood into the lorry and left the place. However, two lorries were stopped by his son-in-law with the help of villagers and un-loaded the material. Though the petitioner made a representation to respondent No.3 on 25.08.2011, there was no response from him. Challenging the action of the respondents the present writ petition came to be filed.

Learned counsel for the petitioner mainly submits that the tamarind tree is situated in the land of the petitioner and it is 100 years old. The said tree came to be removed by using electric cutting machine without any notice to the petitioner. It is the case of the petitioner that pattadar passbook and title deed, which are placed before the Court, would show the existence of tamarind tree in the land of the petitioner.

Per contra, the Government Pleader for Revenue submits that the petitioner has no *locus standi* to file this writ petition as he is not having any lands in the said village. He further submits that the documents which are filed by the petitioner, does not anywhere, refer to the existence of a tamarind tree in the land of the petitioner. He also submits that the said tree is located in the government land and the petitioner has no right to claim over the said tree.

A perusal of the material on record would show that the petitioner was a pattadar of land admeasuring Ac.4.12 gts., situated in Sy.No.68 of Kottapalli Village. Subsequently, he gifted the said property to his daughter vide registered gift deed No.6415 of 2006, dated 29.11.2006 and later the name of his daughter was also mutated in the revenue records. The record also

discloses that the sale made by the petitioner, in respect of land admeasuring 352 square yards to third parties and also 350 square yards of open land covered by taktha No.17. From the above, it is clear that the petitioner is not in occupation of any of the land which he was holding in the village. Be that as it may, the question that falls for consideration is whether the tamarind tree which is said to be 100 years old is lying with the compound wall of the petitioner or his family members house.

Gram Panchayat, Kottapalli by its resolution, dated 27.01.2011, resolved to construct panchayat bhavan with the funds of the Government under N.R.E.G.S. It was also resolved to cut the tamarind tree after obtaining necessary permissions under the Act and Rules, as the said tree was situated in the Gramakantam land. The record placed by the Government Pleader would show that pursuant to a resolution passed by the Gram Panchayat, the Sarpanch, Kottapalli, made an application dated 10.08.2011 before the Tahsildar, Pudur, seeking permission to cut the tamarind tree so as to construct a panchayat bhavan. Pursuant to an application made, the Tahsildar, Pudur Mandal, after conducting enquiry and after hearing of the aggrieved persons submitted a report stating that there was no objection for cutting the tamarind tree and permission under Rule 24 (5) of the Andhra Pradesh Water, Land and Trees Rules, 2004 was granted vide Lr.No.C/711/2011, dated 16.08.2011. It was specifically mentioned in the said letter that only one tamarind tree which was existing in the gramakantam land, was cut and the number of plants to be planted within 30 days.

Further, the sale deed bearing document No.5895 of 2006 dated 08.11.2006 executed by the petitioner in favour of Mallesham, S/o. Ramaiah would disclose that the petitioner sold away land admeasuring 352 square yards with the following boundaries:

North: Gramakantam

South: Open place of Tangadipalli Venkat Reddy

East : Road

West : Patta land

The sale deed further does not anywhere refer to the existence of trees, machineries, mines and fish ponds in the land which was sold by the petitioner.

If the tamarind tree was situated in the land admeasuring 350 square yards which is adjacent to the land sold to Malleshham, definitely the same would have been shown in the boundaries to the sale deed dated 08.11.2006. On the other hand, Gram kantam land was shown to be in existence on the northern side of the land sold by the petitioner. Further, the Taktha for the year 1972 filed by the petitioner, does not anywhere refer to the extent of land held by the father of the petitioner, the survey number where the tree is situated and also the nature and number of trees in the said land. The said document is quite vague and does not *prima facie* establish the existence of tamarind tree in the land of the petitioner. Since the issue involves number of disputed factual aspects, the same cannot be gone into in this writ petition. Hence the request of the petitioner to conduct enquiry to the highhanded action of respondent Nos.3 to 6 in ordering permission for felling the tamarind tree behind the back of the petitioner, lodging a criminal case against respondent Nos.4 and 5 for their high handed action and awarding compensation of Rs.5,00,000/- for felling the tamarind tree cannot be acceded.

For the aforesaid reasons, this Court is of the view that there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, it is always open to the petitioner to approach the Civil Court claiming compensation by adducing oral and documentary evidence, in which event, the same shall be dealt with in accordance with law un-influenced by the observations made in this writ petition. No order as to costs.

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

JUSTICE C. PRAVEEN KUMAR

07.11.2015

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