

THE HON'BLE SRI JUSTICE A.V. SESA SAI

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WRIT PETITION No. 22699 OF 2015
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ORDER:

This writ petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue a Writ, Order or direction more in the nature of Mandamus declaring the action of the Respondents in not transferring the O.S.No.71 of 2011 along with I.A.No.38 of 2011 on the file of the Special Assistant Agent & Sub Division Magistrate (Mobile Court), Bhadrachalam to the Court Special Assistant Agent at Rampachodavaram, East Godavari District, after bifurcation of the State and denying justice to the parties for their grievance for granting police protection as illegal, arbitrary and in violation of Articles 19 and 21 of the Constitution of India and consequently direct the Respondents to transfer the O.S.No.71 of 2011 along with I.A.No.38 of 2011 on the file of the Special Assistant Agent & Sub Divisional Magistrate (Mobile Court) Bhadrachalam to the Court of Special Assistant Agent, Mobile Court at Rampachodavaram, East Godavari District, and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. Heard Sri P.V.Ramana, learned counsel for the petitioners and learned Government Pleaders for Home and Revenue for the respondents.

3. According to the petitioners, they acquired the land admeasuring Acres 0.20 cents in Survey No.18/2, Acres 0.70 cents in Survey No.22/9 and Acres 2.50 cents in Survey No.23, of Tallagudem Village of Nellipaka Mandal (erstwhile Bhadrachalam Mandal) and they have been in possession of the said property for the last sixty (60) years and the revenue authorities incorporated their names in the revenue records. It is further pleaded that the petitions have been in peaceful possession and enjoyment of the said land and constructed a house

and Gram Panchayat allotted house number also and the petitioners herein have been regularly paying house tax to the Gram Panchayat, Kannaigudem.

4. Petitioners herein filed O.S.No.71 of 2011 on the file of Special Assistant Agent & Sub Division Magistrate (Mobile Court), Bhadrachalam, against the respondent Nos. 8 and 9 for injunction and the said court on 22.06.2011 granted interim injunction in I.A.No.38 of 2011. It is further stated that the said injunction orders are still in force and no counter has been filed so far by the respondent Nos. 8 and 9.

5. In view of the provisions of the Andhra Pradesh State Reorganisation Act, 2014, the erstwhile seven Mandals of Khammam District have been transferred to East Godavari District and West Godavari District of Andhra Pradesh, with effect from 02.06.2014. The subject properties were initially a part of Bhadrachalam Mandal, now in view of the said merger the properties now form part of Nellipaka Mandal of East Godavari District. In view of the same, the Special Assistant Agent Mobile Court, Bhadrachalam, has ceased to have jurisdiction to entertain the suits in respect of these areas. In view of the said reasons, the Special Assistant Agent Mobile Court, Bhadrachalam, is not in a position to take up the suits earlier filed including the suit instituted by the petitioners herein. The files pertaining to the cases in the above said seven Mandals are not yet transferred to the court of Special Assistant Agent Mobile Court, Rampachodavaram of East Godavari District, who is now competent to entertain the civil disputes pertaining to the lands including the subject property.

6. It is the grievance of the petitioners herein that taking advantage of the present situation, the unofficial respondents 8 and 9, ploughed the subject land with the help of tractor and laid fencing with force, ignoring the injunction order passed by the Special Assistant Agent Mobile Court, Bhadrachalam. Complaining the same, the petitioners herein lodged a complaint before the 7th respondent – Station House

Officer, Yetapaka Police Station, on 28.06.2015, requesting to take action against the respondents 8 and 9, by giving police protection. According to the petitioners, the Station House Officer, Yetapaka Police Station, expressed his inability to take action in the absence of any orders passed by the court to the said effect. The further grievance of the petitioners herein is that because of the factum of non-transmission of files from Special Assistant Agent Mobile Court, Bhadrachalam, the respondents 8 and 9 are continuously interfering with the subject property of the petitioners herein and in view of the above reasons, the petitioners herein are left with no other alternative remedy.

7. There is absolutely no dispute with regard to the fact that the petitioners herein instituted O.S.No.71 of 2011 on the file of the 5th respondent for injunction and the 5th respondent on 22.06.2011 granted interim injunction in favour of the petitioner herein in I.A.No.38 of 2011 and the same is subsisting as on date. Obviously because of the non-transmission of the files before the 5th respondent to the 6th respondent, the petitioners herein has been made remediless.

8. According to the petitioners, taking advantage of the said situation and despite the injunction granted by the 5th respondent, unofficial respondents are interfering with their peaceful possession and enjoyment of the property. In the facts and circumstances of the case and taking into consideration the nature of controversy, this court is of the considered and definite view that the interest of justice would be met, if a direction is given to the 5th respondent herein, to transmit the file pertaining to O.S.No.71 of 2011 filed by the petitioners herein to the court of the 6th respondent – Special Assistant Agent Mobile Court, Rampachodavaram, within a period of one week from the date of receipt of this order. After the transfer of the same, the petitioners herein are entitled to approach the court of the 6th respondent with necessary application for police protection, and if any

such application is made, the same shall be considered and appropriate orders be passed by the 6th respondent herein, as expeditiously as possible.

9. The writ petition is disposed of with the above direction. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

11th August, 2015
SS

Note: Issue C.C. in three days
B/o. SS