

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.38836 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to declare the action of respondent No.3 in issuing notice, dated 4.11.2016, as illegal, arbitrary and contrary to the principles of natural justice and consequently, to set aside the said notice.

2. Heard and perused the material available on record.

3. Case of the petitioner is that respondent No.4 is his wife and they are blessed with a son and a daughter; that due to some misunderstandings, they filed several cases against each other; that on 4.11.2016, respondent No.4 came to his business premises and threatened him to dispossess him from his shop and to cause damage to his name in the society; that the petitioner made a complaint to respondent No.3 praying to pacify the matter and to do justice; that respondent No.3 received the complaint of the petitioner on the same day, but instead of taking action against respondent No.4, he issued notice, dated 4.11.2016, to him to vacate the house bearing House No.22-64 at Cherial Village and hand over the same to respondent No.4 or else, action would be taken against him; that respondent No.3 is interfering with the civil disputes of the petitioner and respondent No.4 without having any jurisdiction; that respondent No.3 is also threatening the petitioner to evict him from the said house and hand over the same to respondent No.4; that the said notice was issued contrary to the

provisions of the Code of Criminal Procedure and hence, prays to set aside the impugned notice.

4. Learned Assistant Government Pleader for Home produced the written instructions of the Sub Inspector of Police, Cherial Police Station, Siddipet District wherein it is stated as follows:

“..... Upon receipt of the said petition, an entry was made into the Station General Dairy for conducting family counseling.

To know the veracity in the contents of the above complaint, the Asst. Sub Inspector of Police Sri A.Sammireddy of Cherial Police Station issued the impugned notice dt.4.11.2016 due to lack of knowledge.

On noticing the same, this respondent issued a Memo dt.13.11.2016 to the concerned Asst. Sub Inspector of Police, Cherial Police Station calling for his explanation within 3 days as to why disciplinary action is initiated for issuance of the impugned notice. The reply of the Asst. Sub Inspector of Police is awaited. As soon as the reply is received, basing on the same, suitable action will be taken against him in accordance with the rules.

I humbly submit that this respondent is hereby withdraw the impugned notice dt.04.11.2016 which was issued due to oversight and also lack of knowledge.

I humbly submit that no case whatsoever was registered on the complaint of the complainant – 4th respondent herein. I humbly submit that I assure to this Hon’ble Court that this respondent shall withdraw the impugned notice dt.4.11.2016 which was issued due to lack of knowledge but there is no way mala fide intention. I also assure to this Hon’ble Court that such mistakes will not recur in future.

Hence, the writ petition deserves no consideration.”

5. Considering all the facts and circumstances of the case and the written instructions of the Sub Inspector of Police, Cherial

Police Station, the Writ Petition is disposed of directing respondent No.3 not to issue such notice in future without following the procedure under the Code of Criminal Procedure. There shall be no order as to costs.

6. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

17.11.2016
AMD



THE HONOURABLE SRI JUSTICE RAJA ELANGO



WRIT PETITION No.38836 OF 2016

Date: 17.11.2016

AMD