

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.41446 OF 2016

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue appearing for the respondents 1 and 2 and the learned Government Pleader for Home appearing for respondent No.3. With their consent, the present writ petition is disposed of at the admission stage.

2. The present writ petition came to be filed with the following prayer:

“to issue appropriate Writ, direction, or order more particularly one in the nature of Writ of Mandamus or any other Writ or order/direction, to Respondent No.2 to act upon petitioners application dated 24-08-2016 and cause an enquiry under Sec.145 Cr.P.C.”

3. The averments in the affidavit filed in support of the writ petition would show that the Government assigned land to an extent of Ac.5.00 Gts., in Sy.No.273/72 situated at Nallakunta village of Dammapeta Revenue and Mandal, Khammam District on 30.11.1996 to the father of the 1st petitioner by name Kalangi Sanjeeva Rao, who was an Ex-Serviceman and served 22 years in the Army. The 2nd respondent – Tahsildar, Dammapeta, surveyed the said land and after conducting panchananama, handed over the said land to Kalangi Sanjeeva Rao. Since then, he claims to be in peaceful possession and enjoyment of the land and his name was also mutated in the revenue records. Subsequently, the father of the 1st

petitioner Sanjeeva Rao died, and as his mother suffered from ill-health, she was admitted in a hospital at Vijayawada, who later died. Since the 1st petitioner is the only surviving legal heir and as he was working in the private firm, was unable to look after the agricultural operation at Dammapeta. Hence, he authorised one Maddisetti Satya Prasad i.e., petitioner No.2 herein to look after his land affairs. In the meantime, one Burri Venkateswarlu of Dammapeta village, occupied the above land and started threatening the petitioners not to enter into the land. Pursuant to which, the 1st petitioner gave an application on 24.08.2016 to the 2nd respondent to take appropriate action. But, the inaction on the part of the 2nd respondent leads to filing of this writ petition.

4. Though various grounds are raised in the writ petition, learned counsel for the petitioners restricts his prayer seeking a direction to the 2nd respondent to initiate proceedings under Section 145 Cr.P.C.

5. Learned Government Pleader for Revenue strenuously opposed the same and submits that a perusal of the representation made by the 1st petitioner would clearly indicate that there is a civil dispute between two individuals and as such, the petitioners ought to have approached the Civil Court instead of seeking a direction for initiation of proceedings under Section 145 Cr.P.C.

6. It is to be noted that proceedings under Section 145 Cr.P.C., will be initiated by an Executive Magistrate when there exists a

breach of peace and the said action shall be subject to his satisfaction. Therefore, question of directing the authority to initiate the proceedings under Section 145 Cr.PC., would not arise.

7. A reading of the representation dated 24.08.2016, which is said to have been made by the 1st petitioner, would show that there exists a dispute between the petitioner and one Burri Venkateswarlu. It is the case of the 1st petitioner that he was away from his village in pursuance of his employment; only recently he came to know about his land being occupied by one Burri Venkateswarlu and when he went there, the said person threatened with dire consequences. Definitely the same would not fall within the ambit of Section 145 Cr.P.C., and the petitioners have to approach the Civil Court instead of filing the present writ petition before this Court. In view of the above, I see no merit in the writ petition.

8. Accordingly, the Writ Petition is dismissed. Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:29.11.2016
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