

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION Nos.34685 and 37515 OF 2016

COMMON ORDER:

Writ Petition No.34685 of 2016 came to be filed with the following prayer:

“to issue a Writ, order or direction, more particularly a Writ of Mandamus, declaring action of respondent Nos.1 to 5 in trying to dispossess the petitioner from the land to an extent of Ac.1.06 cents, covered by R.S.No.264/3, Ankalampadu (V), Kamavarapukota (M), West Godavari District, without following due process of law, more particularly during pendency of suits in O.S.No.111 of 2016 and O.S.No.337 of 2016, as arbitrary, illegal and unconstitutional and consequently, direct the respondents not to interfere with the petitioner's possession and enjoyment over the said land without following due process of law”.

2. Writ Petition No.37515 of 2016 came to be filed with the following prayer:

“to issue a Writ, order or direction, more particularly a Writ of Mandamus, declaring the impugned letter in Roc.No.-/2016(B), dated 04.10.2016, issued by respondent No.4, as arbitrary, illegal and unconstitutional and consequently, set aside the same.”

3. Since the issue in both the writ petitions arises out of the same property, they are heard together and disposed of by way of this Common Order.

4. The affidavit filed in support of the writ petitions would show that the father of the petitioner had about Ac.10.00 cents of land in Sy.No.264 in Ankalampadu Village, Kamavarapukota Mandal, West Godavari District. Thereafter, in a family partition of the property, his father, two brothers, himself and one sister, got about Ac.2.00 cents and odd towards their respective shares. It is said that towards southern side of their lands, there is a land to an extent of Ac.2.06 cents covered by R.S.No.264/3, which has been in their continuous, undisturbed, possession and enjoyment for the last several decades. Towards southern side of that Ac.2.06 cents of land, there is a main way to their lands and the same is being used as ingress and egress to their lands. While the things stood thus, the petitioner and his family members seems to have allowed the father of the unofficial respondents by name Neelapala Venkanna to get D-Form Patta in the year, 1989 in respect of above Acs.2.06 cents of land. Though D-Form patta was granted, he never disturbed their peaceful possession and enjoyment over the said land. By afflux of time, as the said Venkanna was in dire need of funds, he sold the land to an extent of Ac.1.06 cents to the petitioner on 12.05.2006 for a sale consideration of Rs.1,50,000/-, as the same has been used for ingress and egress to their lands. After the demise of said Venkanna, his daughter by name Anasuramma filed O.S.No.111 of 2016 on the file of the Junior Civil Judge, Chintalapudi, West Godavari District seeking injunction in

respect of Ac.1.03 cents covered by R.S.No.264/3, whereas the petitioner herein filed O.S.No.337 of 2016 on the file of the Senior Civil Judge, Eluru, against the unofficial respondents herein seeking the same relief of injunction and both are pending for adjudication. Meanwhile, the unofficial respondents, who are highly influential, obtained a Certificate from the 4th respondent and basing on the said Certificate, the official respondents are trying to dispossess the petitioner from the land in dispute and the 4th respondent addressed a letter dated 04.10.2016 to the 6th respondent requesting him to register a criminal case against the petitioner, however, the said copy of the letter is not supplied to him.

5. Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue and the learned Government Pleader for Home appearing for respondent No.1 to 6. With their consent, the present writ petition is disposed of at the admission stage.

6. Since this Court is not going into the merits of the case, it may not be necessary to issue notice to the unofficial respondents.

7. Learned counsel for the petitioner submits that he is owner of the land in dispute and he also placed on record the agreement of sale executed in the year, 2006 to show that he is in possession of the property, hence seeks a direction to the respondents to follow the procedure enunciated in the Andhra Pradesh Assigned Lands

(Prohibition of Transfers) Act, 1977 (for short, 'the Act') and the Rules made thereunder before taking any steps for eviction of the petitioner. He further submits that the letter addressed by the 4th respondent to initiate criminal action against the petitioner is totally baseless.

7. From the narration of the facts in the affidavit filed in support of the writ petition, it is clear that the petitioner herein is said to have purchased the land assigned to the father of the unofficial respondents. The 4th respondent- Tahsildar has to decide the issue as to whether the petitioner is entitled to purchase the assigned land and whether any such transaction is permissible under the Act.

8. Having regard to the circumstances of the case, if the authorities intend to take possession of the land in dispute, they shall follow the due process of law viz., issuing of notice under Rule 3 of the Rules inviting objections from the petitioner and also unofficial respondents, consider their objections and pass orders, in accordance with law. Till such time, *status-quo* as on today shall be maintained and the petitioner shall not be dispossessed from the subject land, if he is in possession.

9. Insofar as the letter dated 04.10.2016 addressed by the 4th respondent is concerned, since there is a dispute as to whether the petitioner can be called a trespasser or not, the Station House Officer, Tadikalapudi Police Station, West Godavari District, is

directed not to initiate any criminal action against the petitioner, without further enquiring into the matter.

10. Accordingly, both the Writ Petitions are disposed of. Consequently, Miscellaneous Petitions, if any, pending in these writ petitions shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:04.11.2016
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