

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 35745 of 2012

Order:

The petitioner claims to be running Bamboo business as a tenant of respondents 13 and 14 since 1998. When the respondents 8 to 12 started interfering with his possession and enjoyment of the land on the ground that they are the owners of the land by virtue of a registered sale deed vide document No.3189 of 2011 executed by the respondents 8 and 11 in favour of respondent No.12 and also a registered gift deed vide document No.3190 of 2011 executed by the respondents 8 and 9 in favour of respondents 10 and 11, the 13th respondent filed a complaint before the police. A separate complaint was filed before the X Metropolitan Magistrate, Cyberabad, at Malkajgiri, who referred the same to the police for investigation. The 12th respondent also filed a complaint on 31.08.2011. The petitioner further states that he filed OS No.163 of 2012 on the file of II Additional District Judge, Ranga Reddy District, at L.B. Nagar, seeking permanent injunction against the respondents 8 to 12 and the said suit was pending. IA No.559 of 2012 filed by the petitioner in the said suit for temporary injunction was dismissed by the trial Court and the same was confirmed by this Court in CMA No.644 of 2012. When the respondents 8 to 12 attempted to make illegal constructions in the land, he lodged a complaint on 11.07.2012 with the sixth respondent and when he refused to receive the same, he sent it by registered post on 13.07.2012. In those circumstances, he filed the present Writ Petition challenging the inaction of the respondents 1 to 7 in dealing with the complaint made against the respondents 8 to 12 with regard to possession of the petition schedule property bearing Plot Nos.9 to 14 and 16, situated in Survey Nos.741, 742 and 743 of Malkajgiri village, Ranga Reddy District.

2. A counter affidavit was filed by the sixth respondent, Inspector of Police, Malkajgiri Police Station, stating that on receipt of private complaint from the Court of X Metropolitan Magistrate, Cyberabad, at Malkajgiri, a case in Crime No.370 of 2011 was registered on 31.08.2011 and investigation was taken up. The respondents 8 and 9 were shown as accused Nos.1 and 2 in the said crime. During the course of investigation, the investigating officer examined the complainant/13th respondent on 31.08.2011 and other witnesses including the petitioner on 01.09.2011 and recorded their statements. The investigation was pending for want of some more material. The 14th respondent, who claims to have given the land on lease to the petitioner, filed WP No.26137 of 2011 against the respondents 8 and 9 and the said Writ Petition was disposed of on 28.02.2012 by observing that in view of the rival claims between the parties no relief can be granted to the petitioner therein in respect of possession of the plots. The 12th respondent separately filed a complaint on 31.08.2011 and Crime No.369 of 2011 was registered in Malkajgiri Police Station and investigation was taken up. It is further stated that the petitioner is no way concerned with the Crime Nos.369 and 370 of 2011. Though the complaint sent by the petitioner was received on 13.07.2012, no action was taken thereon since it being a civil in nature. He ultimately stated that the investigation in Crime Nos.369 and 370 of 2011 are under progress.

3. The above averments clearly show that the petitioner is only a tenant from respondents 13 and 14. The respondents 13 and 14 had taken separate action with regard to alleged interference. It is also clear from the record that the injunction application filed by the petitioner in IA No.559 of 2012 was dismissed by the trial Court and the same was confirmed by this Court. The present Writ Petition filed for protecting the possession of the petition schedule land after dismissal of the injunction applications by the competent trial Court

and this Court cannot be entertained. In view of the averments made by the sixth respondent that the petitioner was not the complainant in Crime Nos.369 and 370 of 2011, no relief can be granted in the Writ Petition.

4. The Writ Petition is, accordingly, dismissed, giving liberty to the petitioner to agitate his rights in the pending civil suit. There shall be no order as to costs.

5. As a sequel thereto, the miscellaneous applications, if any, pending in this Writ Petition shall stand closed.

A.
Date: 11.04.2016
Nsr

RAMALINGESWARA RAO, J