

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.39205 OF 2016

ORDER:

This Writ Petition under Article 226 of the Constitution of India is filed by the petitioner with the following relief:

“to issue any writ, order or direction more particularly in the nature of MANDAMUS declaring the inaction of the Respondents No.2 to 4 over the representations of the petitioner dated:05-10-2015, MACAW& & 15-04-2016 claiming the release of assigned land /house site allotted to his father from the occupation of the private Respondents as illegal and violative of Article 14 & 21 of the Constitution of India and consequently direct the Respondents to hand over the said assigned land to the petitioner after conducting due enquiry.”

2. Heard the learned counsel for the petitioner, the learned Government Pleader for Revenue appearing for respondents 1 to 3 and the learned Government Pleader for Home appearing for respondents 4 and 5. With their consent, the writ petition is disposed of at the stage of admission itself. There is no necessity to put respondent Nos.6 and 7 on notice as this Court is not venturing to adjudicate the issue on merits.

3. A perusal of the material placed before this Court would show that on 05.10.2015 the petitioner herein made a representation to the 2nd respondent herein seeking action against one Prabhakar, who was an ex-service man. The said representation was forwarded to the 3rd respondent vide letter dated 28.10.2015 seeking action as per existing

norms in force and report compliance immediately for further action. Thereafter, on 03.03.2016 a reminder was also addressed to the 3rd respondent directing to report compliance by 08.03.2016. Inaction on the part of the 3rd respondent is the subject matter of challenge in this Writ Petition.

4. Learned counsel for the petitioner mainly submits that though the District Collector has requested the Tahasildar to act as per the existing norms on the representation of the petitioner, till date no decision has been taken.

5. On the other hand, the learned Government Pleader for Revenue while opposing the writ petition placed reliance on a judgment of this Court in *Ch. Ramaiah v. District Collector and others*¹ wherein this Court held that when assigned land is sought to be transferred, it is incumbent on the part of the Mandal Revenue Officer to initiate proceedings for assignment of the land by taking back possession of the land and restoring the same to the original assignee or the legal heirs of such original assignee. On restoration, if the original assignee again transfers the land in favour of third parties, the Mandal Revenue Officer may resume the land from the transferee and it need not be assigned to the same assignee again.

6. A perusal of the averments made in the affidavit filed in support of the writ petition would show that the petitioner filed representations on 05.10.2015 and 15.04.2016 before the 2nd respondent stating that

¹ 2005 (6) ALT 358

the land which was assigned, was grabbed by one Y.Prabhakar and he could not resist the same at that point of time. The 2nd respondent forwarded those representations to the 3rd respondent directing him to enquire into those aspects and send a report.

7. Having regard to the facts in issue and considering the rival submissions made, the 3rd respondent-Tahasildar is directed to enquire into the representation made by the petitioner on 05.10.2015, which was forwarded by the District Collector to the Tahasildar, and send a report, keeping in view the judgment of this Court relied upon by the learned Government Pleader. It is needless to mention that the petitioner and also the unofficial respondents shall be heard before sending the report. The 3rd respondent shall send the report to the 2nd respondent as early as possible preferably within a period of eight (08) weeks from the date of receipt of a copy of this order.

8. Accordingly, the Writ Petition is disposed of. 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:15.11.2016
INL