

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.37789 OF 2016

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for the respondents. 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 a Writ, Order or Direction, particularly a Writ of Mandamus a writ in the nature of mandamus declaring the action of the 3rd respondent in vacating the interim order under Rc.No.1893/2016A, dated 26.10.2016 as illegal, arbitrary, unconstitutional and contrary to the principles of natural justice and consequently direct the respondents herein to drop the proceedings initiated under A.P. Land Encroachment Act, 1905.”

3. The averments in the affidavit filed in support of the writ petition would show the father-in-law of the petitioner purchased the land in Sy.No.1183 under a registered sale deed dated 24.06.1971. Out of Ac.1.22 cents, an extent of Ac.0.99 cents was acquired from time to time leaving an extent of Ac.0.23 cents. The petitioner is said to have applied to the Gram Panchayat seeking permission to construct a weigh bridge. She obtained approval from the Weights and Measurements Department, and running the Weigh Bridge since 2008 without any interruption. While the things stood

thus, the petitioner received a notice dated 21.09.2016 under Section 7 of the Land Encroachment Act, 1905 (for short, 'the Act') from the 4th respondent stating *inter-alia* that she is in occupation of an extent of Ac.0.07 cents of Government Poramboke Rasta in Sy.No.126 of Singupuram village, therefore, directed her to remove the constructions, if any, on the said land. The petitioner is said to have submitted an explanation denying the averments in the notice. Not being satisfied with the explanation, respondent No.4 issued an endorsement dated 10.10.2016 stating *inter alia* that he is not satisfied with the explanation submitted by her, and issued another notice dated 14.10.2016 under Section 6 of the Act stating *inter alia* that she encroached on to an extent of Ac.0.05 cents of Government Poramboke Rasta land in Sy.No.126 of Singupuram Village and constructed weigh bridge room and platform and directed to vacate the land. Against the said notice issued under Section 6 of the Act, the petitioner is said to have preferred an appeal before the 3rd respondent. It is said that initially, on 20.10.2016, the said authority granted stay, but however, the same was vacated on 26.10.2016 without hearing the petitioner.

4. Learned counsel for the petitioner mainly submits that appeal filed by the petitioner is pending before the 3rd respondent and hence seeks indulgence of this Court to protect the interest of the petitioner pending disposal of the appeal as stay was vacated without hearing the petitioner.

5. Learned Government Pleader for Revenue, on instructions, submits that the stay obtained by the petitioner, who encroached into the Government land, was vacated and that the petitioner has no right and interest over the property.

6. Having regard to the submissions made, facts and circumstances referred to above and as the interim stay obtained by the petitioner was vacated without hearing him, the 3rd respondent is directed to pass final orders in the appeal, in accordance with law, as early as possible preferably within a period of four (04) weeks from the date of receipt of a copy of this order. Till such time, the 3rd respondent authority shall permit the petitioner to run the weigh bridge.

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:14.11.2016

Note: Furnish CC within two (02) days.

(B/O)

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