

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.14158 OF 2005

ORDER:

The present Writ Petition, under Article 226 of the Constitution of India, came to be filed with the following prayer:

“..to issue any writ, order or direction, more particularly a Writ of Mandamus declaring the action of the respondents as illegal and ultra vires to the provisions of Articles 14 and 300-A of the Constitution of India, besides directing the respondents not to interfere with the peaceful possession and enjoyment of property in an extent of Ac.5.00 of seri dry land situated in R.S.No.103 of P.Nainavaram Village of Vijayawada Rural Mandal.”

2. The averments made in the affidavit filed in support of the writ petition would show that the petitioner purchased land mentioned referred to above under a registered sale deed dated 11.12.1992, for a valuable consideration of Rs.75,000/- from the original owners viz., Sri Lakkaraju Krishna Mohan and others. As per the recitals of the sale deed, the petitioner has been put in possession of the property on the date of purchase itself and since then, he has been enjoying the property without any interference from any corner. In order to protect his property, petitioner laid fencing with cement pillars and barbed wire. While the matter stood thus, respondent No.3 - Mandal Revenue Officer, tried to interfere with peaceful possession and enjoyment of the property on 16.09.2002, on the ground that it was a Government land. Petitioner made a representation explaining his right over the property in dispute and also enclosing a copy of the registered sale deed. But, without considering the same, the 1st respondent directed his subordinates to pull the cement posters. Challenging the said action of the respondents,

petitioner filed W.P.No.18841 of 2002, which was disposed of on 27.09.2002 directing the respondents therein not to interfere with the possession and enjoyment of the petitioner over the subject land without initiating the proceedings under relevant statutes or issuing notice. Thereafter, at the instance of respondent No.3, respondent No.1 has called the petitioner to the office of the Sub Collector on 26.06.2005 and directed him to sign on a paper without disclosing the contents, threatened him with dire consequences to foist a criminal case and demanded him to vacate the land. Challenging the said action, the present writ petition came to be filed.

3. By an order dated 01.07.2005, this Court while issuing *rule nisi*, granted interim direction to the respondents not to interfere with the peaceful possession and enjoyment of the petitioner in respect of the subject land.

4. No counter has been filed till date, but however, learned Government Pleader, on instructions, denied the allegations made in the writ petition. He further submits that if the petitioner is in possession of the property, no action will be taken against him except in accordance with law.

5. At this stage, learned counsel for the petitioner would submit that the petitioner is in possession and enjoyment of the property from the date of his purchase under a registered sale deed by paying valuable consideration.

6. Having regard to the circumstances of the case, the Writ Petition is disposed of directing the respondents not to interfere with the possession

and enjoyment of the petitioner in respect of the property i.e., land in an extent of Ac.5.00 of seri dry land situated in R.S.No.103 of P.Nainavaram Village of Vijayawada Rural Mandal without following due process of law. However, if the respondents intend to take any action, the same shall be in accordance with the procedure established by law.

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:03.08.2017
INL

