

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 14978 of 2005

ORDER:

1) The present writ petition came to be filed questioning the proceedings No.B2/ 5463/ 1997, dated 16.05.2005, passed by the first respondent and to set aside the same holding that the said order is illegal and void.

2) Though various grounds are raised, learned counsel for the petitioners mainly submits that the property in dispute contains a building, which is in possession of the petitioners and the same has been let out to number of persons. Relying upon Section 8 of A.P.Escheats and Bona Vacantia Act, 1974 (for short "the Act") learned counsel for the petitioners submits that there is a procedure for instituting a suit for recovery of possession of escheat or bona vacantia. The learned Special Government Pleader did not dispute the said proposition.

3) In order to appreciate the same, it is useful to extract Section 8 of the Act, which reads as under:

"8. Local Officer to institute a suit for recovery of possession of escheat or bona vacantia when the person in possession resists:

- (1) Where, as a result of the inquiry under Section 7, the local officer is satisfied that the property of the nature of an escheat or bona vacantia is in the possession of a person who has no authority to claim it and if such person resists to

surrender such possession on demand, the local officer may after obtaining the sanction of the competent authority, institute a suit in a court for declaration of the government's property to the property and for recovery of possession of such property.

- (2) Where the court has declared that the property is an escheat or a bona vacantia, the local officer shall obtain the possession thereof through the court and manage it or dispose it of in such manner as may be prescribed."

4) A reading of the above provision would clearly show that on enquiry, if the local officer is satisfied that the property is an escheat or bona vacantia and is in possession of a person, who has no authority to claim it, the local officer shall institute a suit for declaration and recovery of possession thereof.

5) Therefore, the proper course for the respondents would be to file a suit for recovery of the property from the petitioners, who are in possession of the property. But however, at this stage, learned counsel for the petitioners submits that the impugned order, permits the Mandal Revenue Officer to take custody of the schedule property, which is illegal and improper. He further submits that when the Act contemplates filing of a civil suit, the authority not to authorize the Mandal Revenue Officer to take the subject property to his custody. The said aspect is not seriously contested by the learned Government Pleader.

6) Having regard to the above, the writ petition is disposed of, permitting the respondents to file a suit in accordance with

Section 8 of the Act, in which event the same shall be decided in accordance with law. Till appropriate orders are passed by the civil Court either in the main suit or in the interlocutory application, the order of the Joint Collector dated 16.05.2005 directing the Mandal Revenue Officer to take into custody, the property in dispute, stands suspended.

7) There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

03.08.2017
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JUSTICE C. PRAVEEN KUMAR