

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.23977 of 2017

ORDER:

1) The present writ petition came to be filed with the following relief:

“issuance of writ of mandamus declaring the action of the respondents, particularly the officials of respondent Nos.3 and 4 in calling the petitioners to the police station and interfering with personal life and liberty of the petitioners more particularly with their possession over the property in Sy.No.366/ P admeasuring Ac.5.00 gts., situated at Attapur Village, Rajendranagar Mandal, Ranga Reddy District, and threatening with dire consequences of implicating in false case, as illegal, arbitrary and violative of principles of natural justice; and consequently direct the respondents not to interfere with the personal life, liberty and possession of the petitioners over the subject property.”

2) Though various grounds are raised, learned counsel for the petitioners mainly submits that the respondent authorities may be directed not to call the petitioners to the police station, without following due process of law.

3) Learned Government Pleader does not dispute the same. However, he submits that any action taken against the petitioners shall be in accordance with law.

4) It is to be noted that this Court in *G.B.C.Raj Gopal vs. The Government of A.P. Rep., by The Principal Secretary, Home Department, Secretariat Buildings, Secretariat, Hyderabad, A.P. and six others* in W.P.No.34137 of 2013, vide order dated 24.04.2014 while dealing with power of adjudication of civil/ property dispute held as under:

“VI. POWER OF ADJUDICATION OF CIVIL/PROPERTY DISPUTES IS CONFERRED ONLY ON THE JUDICIARY AND NOT ON POLICE OFFICERS:

50. Maintenance of peace and public order, prevention of crime and investigation of cognizable offences are functions which Police Officers are, statutorily, obligated to discharge. While [Section 154\(1\)](#) Cr.P.C confers power, and casts a duty, on the police officer to register a cognizable offence, [Section 155](#) Cr. P.C. enables a police officer to make an entry in the appropriate register, regarding information relating to a non-cognizable offence. He cannot investigate a non-cognizable offence without the order of the Magistrate. As a necessary corollary, any attempt by a police officer to investigate a complaint, which does not contain allegations of the commission of a cognizable offence, without permission from the Magistrate would violate [Section 155\(2\)](#) Cr. P.C and is, ex facie, illegal. There is no presumption in law that every rift in human relations would lead to a civil dispute, and a civil dispute is likely to result in clashes resulting in offences against the human body. A Police Officer would not be justified in saying that he/she is examining a complaint which, ex facie, has the trappings of a civil dispute. (S. Masthan Saheb¹¹). Even if a civil dispute has a criminal element, which falls within the ambit of a cognizable offence, with the potential of a law and order problem posing threat to the society at large, a Police Officer can take up investigation only after

registering the complaint under [Section 154 Cr.P.C. \(Lakshmi @ Lakshmamma v. Commissioner of Police\)](#) . 51.

The function of resolving civil disputes is entrusted to the judiciary. Police officers lack jurisdiction to interfere in civil/property disputes between two citizens. Even in criminal case, their role is limited to the registration of complaints and causing investigation. The power to adjudge whether or not an accused is guilty of having committed a criminal offence, and to convict and sentence him therefor, is vested exclusively in the judicial branch of the State. Judicial power cannot be exercised by agencies outside the judicial orbit and, where there is no legislative foundation for exercise of judicial power by a forum, it has no legal capacity to entertain requests for adjudication. Judicial power is a facet of sovereign power and can be conferred only by a Statute or by a Statutory instrument. It cannot be assumed suo motu. No authority may exercise adjudicatory powers absent a conferment of such powers by Statutory instruments. The coercive power of the State may not be employed to adjudicate disputes. (M/s. Janathaeem Industries Ltd., rep., by its Public Relations Officer M.S. Ganesan, Vijayawada. v. The District Collector, Krishna district at Vijayawada)”.

52. While the inordinate delay, in resolution of civil disputes before Civil Courts of competent jurisdiction, is undoubtedly a cause of concern that does not justify Police Officers exercising powers, conferred exclusively of the judicial branch of the State, to adjudicate civil disputes. While the need to strengthen judicial institutions, and to reduce the inordinate delay in disposal of Civil Suits, cannot be over-emphasised, the highhanded acts of police officers in seeking to resolve civil disputes, that too in the precincts of a police station, must also be sternly dealt with. Just as Courts would not undertake investigation of criminal offences, as these are matters in the exclusive realm of the investigating agency, the powers conferred and the duties

cast upon Police Officers, under [the Criminal Procedure Code](#), is only to register complaints regarding cognizable offences and investigate thereinto; and not adjudicate even criminal cases, much less resort to settlement of civil disputes.

53. Police officers should not usurp, or even seem to usurp, judicial functions of adjudication or to summon and force persons to resolve their inter-se civil disputes in a particular manner under the guise of family counselling”.

5) Further, in para 65 of the said judgment, while dealing with issue of forcibly summoning a person to the police station, observed as under:

“65. No person can be forcibly summoned to a police station except in accordance with law, including the provisions of the [CrPC](#). Exercise of power by police officers, and the mode and manner of its exercise, is circumscribed by the provisions of the [CrPC](#). Conferment of power is only to enable police officers to effectively discharge their statutory/legal obligations. Exercise of power, otherwise than in furtherance of a statutory/ legal duty, is an abuse of power”.

6) Without going into merits of the case; having regard to the submissions made and in view of the judgment referred to above, the Writ Petition is disposed of directing the respondent authorities not to interfere with the personal life and liberty of the petitioners or any civil disputes pending between the parties and not to summon the petitioners to the police station, without following due process of law. However, if the respondent authorities intend to take any action against the petitioners, the same shall be in accordance with law.

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

JUSTICE C. PRAVEEN KUMAR

20.07.2017
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