

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.16639 OF 2013

ORDER:

The petitioner prays for the following relief:

“...writ of mandamus declaring the inaction of the respondents 1 to 3 herein in rendering necessary assistance to protect the possession of the petitioner in respect of Acs.22.00 cents of dry land in Sy.No.359 of situated in Medicherla Village, Bapulapadu Mandal, Krishna District. in terms of the decree and judgment in O.S.No. 70 of 1994 on the file of the Senior Civil Judge, Nuzivid, as illegal, arbitrary, unjust and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India and consequently direct the respondents 1 to 3 to provide necessary protection to the petitioner to protect her possession and enjoyment of the above extent of land...”

The petitioner relies on the judgment and decree in O.S. No.70 of 1994. Now, the complaint is there is inaction of respondents 1 to 3 in rendering assistance to protect possession of the petitioner of an extent of Ac.22-00 in Survey No.359 in Medicherla Village, Bapulapadu Mandal, Krishna District.

Mr.Sidhar Reddy places strong reliance on the decisions of this Court in Satyanarayana Tiwari v. S.H.O.P.S.Santhoshnagar, Hyderabad¹, Sangu Brahman v. Station House Officer, Garidepalli P.S.Nalgonda District² and contends that the execution of decree and judgment is one of the remedies and to uphold the dignity of rule of law respondents 1 to 3 are under legal obligation to render necessary police protection.

I have perused the record and also the principle laid down by this Court in the decisions referred to above. On 11.06.2013, the

¹ AIR 1982 A.P. 394

² 2005 (3) ALD 772

writ petition is filed seeking enforcement of decree dated 05.02.2003. The petitioner has got decree of perpetual injunction in her favour. The petitioner, if the decree of perpetual injunction is disobeyed, ought to file application for execution of the decree, attachment of properties of J.Drs and/or application for police protection etc. as is advised. The remedy of writ, it is well settled, is a discretionary relief. The Court exercises the jurisdiction of Mandamus subject to petitioner establishing a right, corresponding duty and demand and refusal by respondents etc. Yet another circumstance taken by the Court is existence of effective alternative remedy. This Court while considering and disposing of the present writ petition is not expressing the view that under Article 226 of the Constitution of India, the direction to provide police protection etc. could not be granted. As already noted, it depends on the facts and circumstances of each case. The petitioner failed to make out the case for issuing a direction as prayed for. Hence the writ petition is not admitted. Accordingly, the writ petition is dismissed. The petitioner is given liberty to work out remedies if disobedience by respondents is treated as continuous cause of action by approaching Executing Court for necessary relief.

No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date: 13.11.2017

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