

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 22161 of 2017

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus to declare the action of respondent No.2 in not considering the representation, dated 17.05.2017, made by the petitioner and further not causing enquiry into the unlawful activities of respondent No.3, as illegal and arbitrary.

2) The averments in the affidavit filed by the petitioner in support of the writ petition would show that the petitioner herein claims to be the owner of land admeasuring 800 square yards in Sy.No.213 to 217 situated at Turka Yamjal Village, Hayathnagar Mandal, Ranga Reddy District, purchased under a registered sale deed bearing document No.1041/1997, dated 29.03.1997. The said land was divided into plots and the petitioner claims to be the owner of plot Nos. T-55, T-56, T-57 and T-58. It is averred that when some land grabbers tried to grab the said land, the petitioner made an attempt to protect his lands by erecting a barbed wire. At that time, the land grabbers removed the same and also assaulted the petitioner and his men. Thereafter, the petitioner constructed a compound wall around the said land, but the same was demolished with the help of JCB and bulldozers. It is said that respondent No.3 was a silent spectator to the incident. It is alleged that instead of protecting the said land, respondent No.3 encouraged the said land grabbers and is terrorizing the

colony people by giving threats of demolition of the houses, roads, street lights etc. The averments in the affidavit further show that earlier, the petitioner is said to have approached the Commissioner but the same did not yield any result. On 17.05.2017 the petitioner made a representation to respondent No.2, which was acknowledged in the office of D.G.P. on 18.05.2017. Their inaction led to filing of the present writ petition.

3) A counter came to be filed by the Inspector of Police, Vanasthalipuram Police Station, denying the averments made in the writ petition. It is stated that subsequent to the receipt of the report dated 17.05.2017, the Inspector of Police made a preliminary enquiry, which revealed that four crimes came to be registered, the particulars of which are as under:

- 1) Crime No.1026 of 2014 for the offences punishable under Sections 447, 427 and 506 IPC against the petitioner herein on the basis of a report lodged by Viren Shah.
- 2) Crime No.1004 of 2014 for the offences punishable under Sections 447 and 427 IPC against Govind Das and four others on the basis of a report lodged by one Vajralatha.
- 3) Crime No.1005 of 2014 for the offences punishable under Sections 447 and 427 IPC against Govind Das and four others, on the basis of a report lodged by one Swaroopa Rani.
- 4) Crime No.637 of 2015 for the offences punishable under Sections 447 and 427 IPC, against Govind Das and his son

Viren and others, pursuant to a report lodged by the petitioner.

4) The averments in the counter further show that there are civil disputes between the petitioner and Govind Das and others. Both the parties filed suits and counter suits before the Junior Civil Judge, Hayathnagar. The averments in the counter also show that the writ petitioner filed O.S.No.1056 of 2008 on the file of the I Additional Junior Civil Judge, Ranga Reddy, seeking perpetual injunction, which was decreed on 02.06.2013. Aggrieved by the same, Mr.Viren and others filed A.S.No.150 of 2014 before the XIV Additional District Judge, Ranga Reddy, which was dismissed on 14.04.2016. Aggrieved by the same, S.A.No.795 of 2016 is said to have been preferred and the same is still pending. The averments in the counter also show that the petitioner and others filed E.P.No.31 of 2015 before the I Additional Junior Civil Judge, Ranga Reddy District, seeking arrest and detention of Viren Shah and others to civil prison for their willful disobedience and violating the decree of perpetual injunction. It is also to be noted here that the petitioner also filed W.P.No.42771 of 2016 seeking police protection so as to erect boundary wall around the property. By an order dated 08.12.2016, the said writ petition was disposed of directing the petitioner to give a representation to the Commissioner of Police, Cyberabad and on such representation, the Commissioner was directed to take appropriate action. It is also stated that aggrieved by the order passed in W.P.No.42771 of 2016, writ

appeal No.1476 of 2016 came to be filed, wherein the Division Bench of this Court passed the following order:

“On the short ground of violation of principles of natural justice, the order under appeal is set aside. The Writ Petition is restored to file. The appellants herein shall file their counter affidavits in the Writ Petition within two (2) weeks from today. It is open to the respondents-writ petitioners to request the learned Single Judge to take up the Writ Petition for admission immediately after two weeks.

5) The counter categorically states that there is any amount of dispute with regard to the property in question. As per the Counter, the Inspector of Police visited the land in Sy.No.213 to 217 and as there was no demarcation of the plots, he requested the Assistant Director, Survey and Land Records, Ranga Reddy District, to identify the property, and the said request is still pending consideration. The counter further show that Mr.Viren and others also filed an application before the Assistant Director, Survey and Land Records, for identification of the property and the same is also pending consideration. Having regard to the above, it is stated that question of interference with the activities in the said land would not arise. It is further stated that after identifying the property, definitely, the police shall taking steps in accordance with law.

6) A reply came to be filed stating that on 23.11.2014 at about 2.30 p.m. the petitioner also gave a report against the said land grabbers, which is not referred to in the counter. It is said that

though the report lodged by the petitioner was not accepted but the report said to have been lodged by the third parties was considered and cases were registered. It is averred that respondent No.3 supported the land grabbers in destroying the street lights etc. All the illegal activities are going on with the help of respondent No.3 only. It is also stated that W.P.No.705 of 2017 filed by Smt.Ch.Manjula, against respondent No.3 is also pending. One Mr.Laxmaiah Goud, who is the owner of plot No.T-18 also filed W.P.No.1599 of 2017 against respondent No.3 and the land grabbers which is also pending consideration. Having regard to the above, it is now urged that a direction may be given to respondent Nos.1 and 2 to cause enquire into the report lodged by the petitioner and do justice.

7) As seen from the averments in the affidavit, counter affidavit and reply, there appears to be some dispute with regard to the land in Sy.Nos.213 to 215. As per the counter, there exists a dispute with regard to identification of the property and applications have been made before the concerned authorities for conducting survey, demarcation and identification of the property. The record also shows pendency of civil cases between two parties. In fact, in the reply, it has been stated that the family members of the petitioner are fighting for their rights over the land since 2006. Having regard to the above, ordering an enquiry, as sought for, would be of no use. On the other hand this Court is of the view that in a situation like this, it would be appropriate to pursue the matter with the Assistant Director of

Survey and Land Records, to conduct survey and demarcate the lands which are subject matter of dispute between the parties in this writ petition.

8) The main grievance of the petitioner appears to be the interference of the police in the land of the petitioner. The said allegation was denied stating that there is a dispute with regard to the very identification of the property and because of which application came to be made before the authorities for conducting the survey which is still pending consideration. The same is disputed by the learned counsel for the petitioner, stating that there is no dispute with regard to the identity of the property and the petitioner is in possession of the property. Having regard to the above, if the petitioner is in actual possession of the property, respondent No.3, shall not interfere with the same except in accordance with law. Though a representation was said to have been made to respondent No.2, ventilating his grievance, I am of the view, that the Director General of Police may not be in a position to enquire into this matter. But having regard to the fact situation, he may direct the appropriate authority to look into the matter and see that the police do not interfere with the civil rights of the parties except in accordance with law. However, if there is any law and order problem or if any report is lodged disclosing commission of an offence, the police are at liberty to take action against the offenders, in accordance with law.

9) With the above directions, the writ petition is disposed of.

There shall be no order as to costs.

10) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

01.08.2017

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