

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.20618 of 2017

ORDER:

The present Writ Petition came to be filed seeking issuance of writ of mandamus or any other appropriate order declaring the action of the respondents 2 and 3 in trying to dispossess the petitioner from the schedule constructed structures without any authority inspite of injunction already granted in his favour in I.A.No.304 of 2017 in O.S.No.29 of 2017 on the file of the Junior Civil Judge, Podili, Prakasam District, as illegal and improper.

2) The averments in the affidavit filed in support of the writ petition show that the petitioner intended to construct residential houses in the subject property. According to him, he applied to Gram Panchayat, Podili, for land conversion and the same was accepted. It is said that after obtaining the necessary plans and approvals, the petitioner started construction of two residential houses by laying a basement with pillars around the subject property. It is said that the 4th respondent/unofficial respondent, who is having enmity with the petitioner started interfering with the construction activity of the petitioner. In order to prevent their intervention, the petitioner filed O.S.No.29 of 2017 on the file of the Junior Civil Judge, Podili and also obtained temporary injunction vide I.A.No.304 of 2017 which was in force till 23.04.2017. It is said that the said

interim order was extended from 23.04.2017. While things stood thus, the respondents 2 and 3, who are the Station House Officer, Podili and Circle Inspector of Police, Podili, came to the petitioner's property and started making efforts to dispossess the petitioner from the schedule property, inspite of intimating him about the injunction granted by the Court. Challenging the interference of the respondents 2 and 3 in a civil dispute which is pending between the writ petitioner and unofficial respondent herein, the present writ petition came to be filed.

3) Normally this Court would have disposed of the Writ Petition directing the police not to interfere with the civil disputes pending between the parties except in accordance with law, but, the situation on hand is different.

4) Learned counsel for unofficial respondent filed a detailed counter bringing to the notice of the court certain aspects which were suppressed by the petitioner. According to him, earlier the writ petitioner herein filed W.P.No.17472 of 2017, questioning the action of respondents 1 to 9 therein. The respondents 2 and 3 herein were respondents 7 and 8 in the said writ petition. The averments in the counter affidavit show that the said writ was filed questioning the action of the respondents 2 to 8 in trying to dispossess the petitioner from the very same property in spite of an injunction order passed by the Junior Civil Judge, Podili. The property in the said Writ Petition

and the property involved in the present Writ Petition is one and the same. However, in the prayer portion it is mentioned that such a direction was against respondents 2 and 8, but the counsel admits that it was a mistake. Since the second paragraph as well as paragraph No.9 of the said affidavit clearly disclose that a writ was sought to be issued declaring the action of the respondents 2 to 8 in trying to dispossess the petitioner from the schedule property, as illegal and improper.

5) Though the learned counsel for the petitioner tried to contend that the direction in the said writ petition was sought against the revenue officials only, and not against the police officers, but a reading of the affidavit filed in W.P.No.17472 of 2017 clearly indicate that the relief sought for by the very same petitioner was against all the respondents including the respondents 2 and 3 herein. The said fact of filing the earlier writ petition was suppressed by the petitioner in the present Writ Petition. The reason given by the learned counsel for the petitioner for filing the second writ petition appears to be palpably incorrect. If really, the relief was against the revenue officials, there was no reason for the petitioner to show the Sub Inspector and Circle Inspector as parties to the proceedings and also seeking issuance of mandamus against them. It can be said that the petitioner herein has not come to the court with clean hands and

has suppressed material facts, more particularly filing of a writ petition earlier, for the very same relief.

6) Having regard to the above, I see no merits in the present Writ Petition and accordingly the same is dismissed imposing costs of Rs.2,500/- (Rupees two thousand and five hundred only) on the petitioner. Miscellaneous Petitions pending if any, in this Writ Petition, shall stand closed.

Dt:10.07.2017
GM

JUSTICE C. PRAVEEN KUMAR

