

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION NO. 24186 of 2017

ORDER :

Heard both sides. With the consent of both parties the writ petition is disposed of at the admission stage.

2. The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of respondent No. 3 in interfering with the peaceful possession and enjoyment of the house of the petitioner bearing H.No.1-153 of Mogulluru Village, Veligandla Mandal, Prakasam District and insisting the petitioner to remove the sunshade of the petitioner house at the behest of the neighbours, as illegal and arbitrary.

3. Learned Government Pleader, on instructions, denies interference of the police in disputes between the petitioner and his neighbours and insisting the petitioner to remove the sunshade at the house of the petitioner.

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. In view of the judgment referred to above, the Writ Petition is disposed of directing the respondent police not to interfere with the personal life and liberty of the petitioner or any disputes between the parties, except in accordance with law. If any of the parties are

aggrieved by the sunshade at the house of the petitioner, they are at liberty to approach the Civil Court, seeking appropriate remedy, in accordance with law. If the respondent police intend to take any action against the parties, the same shall be in accordance with law. No costs.

Consequently, miscellaneous petitions, if any pending, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

21.07.2017
vhb

