

HONOURABLE SRI JUSTICE P. KESHA VA RAO

CRIMINAL PETITION No. 12880 of 2010

ORDER:

Heard the learned counsel for the petitioner as well as the respondents.

2. The petitioner-accused filed the present criminal petition to quash the proceedings initiated against him in F.I.R.No.1135 of 2010 of Police Station, Sanjeevareddy Nagar, Hyderabad for the offences under Section 447 IPC and Section 3 of Prevention of Damage to the Public Property Act.

3. The brief facts of the case are that the second respondent-G.Venkatarama Raju filed a complaint on 12.10.2010 before the Station House Officer, S.R.Nagar Police Station, Hyderabad stating that there is an extent of 395 square feet land belonging to Housing Board in S.R.Nagar Colony facing to National Highway adjacent to existing municipal community hall. Previously, land grabbing cases were filed under Section 8(1) of A.P. Land Grabbing (Protection) Act vide LGC No.22 of 1996 and LGC No.10 of 2000 against the Housing Board claiming title over the above said piece of land. The said land grabbing cases were dismissed by the learned Special Court under Land Grabbing Act vide judgment dated 09.01.2004. Subsequently, the second respondent-Housing Board proposed to sell the same through public auction by publishing auction notification dated 27.07.2004. However, the petitioners in the above said land grabbing cases filed W.P.Nos.13831 of 2004 and

13832 of 2004 before this Court and obtained interim orders to maintain *status-quo*. It is brought to the notice of this Court that out of two said writ petitions, Writ Petition No.13831 of 2004 was dismissed and W.P.No.13832 of 2004 was disposed of remanding back to the Special Court under Land Grabbing Act for consideration. At that stage, it is noticed that some persons named Rajesh and others making entry into the land duly cleaning the debris stocked over the land and making attempt to raise some construction work. Therefore, he sought to stop the unauthorized entry of any person in the land belonging to Housing Board. Pursuant to the said complaint, a crime has been registered vide F.I.R.No.1135 of 2010 for the offences referred supra. Aggrieved by the said registration of the crime, the present criminal petition is filed.

4. Learned counsel for the petitioner would contend that the petitioner has purchased the subject property admeasuring 384 square yards in Sy.No.59/1 T.S.No.35/2 and 3 situated in Block-E, Ward No.7 near Bapu Nagar, S.R.Nagar, Yousufguda, Khairatabad, Hyderabad from its' lawful owners Smt.Suneetha Devi and others through a registered sale deed vide document No.1416/2010, dated 21.07.2010. Since the date of purchase the petitioner has been in exclusive possession and enjoyment of the same. The learned counsel would further contend that the said land has been cleared under the Urban Land (Ceiling and Regulation) Act, 1976 vide proceedings C.C.No.E2/107 to 1212/76, dated 16.02.2006. The petitioner herein also filed suit in O.S.No.3681 of 2010 for injunction simplicitor against the second respondent on the file of the Court of

V Junior Civil Judge, City Civil Court, Hyderabad. Pending the suit, the petitioner filed an application in I.A.No.863 of 2010 restraining the second respondent, its agents, representatives from interfering with his peaceful possession and enjoyment of the same. Pending the suit, the petitioner obtained ad-interim injunction. Subsequently, on trial the said suit has been decreed on 20.04.2012. It is also brought to the notice of the Court that though an appeal has been filed by the second respondent, the same has been dismissed for default. Subsequently, an application to restore the same has been filed and the same is pending consideration before the appellate authority. The learned counsel for the petitioner also brought to the notice of the Court certain observations from the judgment of the Court below to the effect that subject properties covered under the land grabbing cases and suit schedule property in O.S.No.3681 of 2010 are different and the relevant portion is extracted as under:

“It is, thus, clear that the properties covered by those land grabbing cases and the suit schedule property are different properties. DW-1 also in his cross-examination has admitted that the land in respect of which the land grabbing cases are pending and the suit schedule property are different with each other.”

5. Perusal of the judgment also would indicate that the matter is purely civil in nature and it appears that there is some dispute with respect to the identity of the suit schedule property. However, this Court cannot go into these disputed questions of fact as to whether the property in possession of the petitioner herein is the very same property for which the second respondent is raising a claim over it.

6. In the light of the above, this Court feels that unless and until the dispute regarding the identity of the suit schedule property is resolved, the petitioner cannot be asked to undergo a trauma facing criminal trial, more so, even the investigation in the light of the judgment and decree in O.S.No.3681 of 2010, dated 20.12.2012. Any investigation as well as the continuation of proceedings would amount to abuse of process of Court, when the second respondent itself is not definite about its claim raised in respect of the subject property.

7. Accordingly, the criminal petition is allowed quashing the proceedings initiated against the petitioner-accused in F.I.R.No.1135 of 2010 of Police Station, Sanjeevareddy Nagar, Hyderabad for the offences under Section 447 IPC and Section 3 of Prevention of Damage to the Public Property Act. However, the second respondent is at liberty to initiate appropriate proceedings after ascertaining the final outcome of the subject matter of O.S.No.3681 of 2010, as per law.

The miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

P. KESHA VA RAO,J

Date:15.12.2017
ccm

HONOURABLE SRI JUSTICE P. KESHAVA RAO



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