

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 27643 OF 2017

ORDER:

This Writ Petition is filed seeking a *mandamus* to declare the action of the 2nd respondent in involving in civil disputes by summoning the petitioner to the police station at the instance of the respondents No.3 to 8 and pressurizing to meet their illegal demands or not to do cultivation of agricultural land in Sy.No.384 to an extent of Ac.1-10 guntas situated at Narva Village, Jaipur Mandal, Mancherial District, is as illegal and arbitrary.

The case of the petitioner, as can be seen from the affidavit filed in support of the Writ Petition, is that he is in peaceful possession and enjoyment of the subject property by virtue of Registered Sale Deed Document No.4332 of 2015, dated 17.04.2015 and his name was also mutated in the Revenue Record vide mutation proceedings No.ROR/6A/Narva/32/2015, dated 02.07.2015 and also issued Pattadar passbooks and Title deeds in his favour and his name was also entered in the pahanies. It is further case of the petitioner that in order to grab his property the unofficial respondents are creating fictitious litigations and filed objection petition before the Tahasildar, Jaipur Mandal for not to issue patta in his favour, however, the said objection was overruled and issued patta in his favour. Even though, in order to grab his property, the unofficial respondents approached the 2nd respondent, under the guise of interim order dated 20.07.2015 passed in I.A.No.56 of 2015 in O.S.No.5 of 2015 by the learned Principal Senior Civil Judge at Mancherial, which order was subsequent to his Registered Sale Deed dated 17.04.2015, and

pressurising him to meet their illegal demands and to extract money from him. Therefore, on 28.03.2016, he approached the higher officials of the Police Department and the matter was referred to the 2nd respondent, even then the 2nd respondent not allowing him to do cultivation of his land and failed to take action against the unofficial respondents as per the complaint given by him, thereby he is being deprived of his right to do cultivation and live respectably. Hence, the present Writ petition.

Heard learned counsel for the petitioner.

Learned Government Pleader for Home, on oral instructions, submits that the allegations made in the affidavit are all false.

Today, while entertaining Writ Petition No. 26557 of 2011, this Court made the order to the following effect:

“It is time to observe that day in and day out, this Court is flooded with Writ Petitions of the present nature and complaints are being lodged with the Superintendent of Police against the Station House Officers concerned alleging that they are interfering with the civil disputes and in that connection, detaining one party illegally, at the instance of the other. Normally, in such cases, when this Court issues notice, the police officials have been giving instructions denying the allegations made against them. Though there is no order, in writing, seeking their appearance before the police station, out of fear, the petitioner, for that matter, the other citizens are constrained to attend the respective police station. In this scenario, this Court takes judicial note of these aspects occurring on daily basis.

As a matter of fact, the Apex Court in 2006 itself, while rendering judgment in ***Prakash Singh v Union of India***¹, made certain recommendations and directed them to be binding on the State Governments. A learned Judge of this Court also considered the subject issue, in

¹ (2006) 8 SCC 1

detail, in Writ Petition No. 14072 of 2016 and batch. After taking notice of the judgments of the Supreme Court, the learned Single Judge *vide* judgment dated 27.04.2017, had directed to implement the ruling rendered in ***Prakash Singh's*** case, the operative portion of which reads as under:

“In view of the above legal position, these Writ Petitions are disposed of directing the Principal Secretaries to Governments, Home Departments of Telangana and the Andhra Pradesh to constitute a ‘State Security Commission’ and a ‘Police Complaints Authority’ as directed by the Supreme Court in ***Prakash Singh***, by co-opting the Member Secretary of the State Legal Services Authority of the concerned States as Member of the State Security Commission and the Secretary of the District Legal Services Authority as a Member of the Police Complaints Authority at the District Level. Since more than a decade has passed after the Supreme Court issued directions and there is an urgent need to create a mechanism for redressal of the grievances of the public in respect of police actions, the “State Security Commission” and the “Police Complaints Authority” shall be constituted as expeditiously as possible not later than three months from the date of receipt of a copy of this order and on such constitution, the complaints of the petitioners in the above three writ petitions, shall be sent to the State Security Commission for further action since there was failure on the part of the Superintendents of Police concerned in taking action by investigating into the complaints. On constitution of such Commission and Authority, wide publicity shall be given in the print and electronic media in order to educate the general public.”

In that view of the matter, since the State is yet to take steps, as directed by this Court, in terms of ***Prakash Singh's*** case, the 2nd respondent Superintendent of Police (Rural), Guntur District, with whom the petitioner lodged a complaint against the 5th respondent Station House Officer *on-line* on 15.05.2017, shall initiate necessary disciplinary action, if warrants against the latter.

It may also be noted that the petitioner shall be entitled to seek injunctive relief against Respondents 6 to 8 and the 5th respondent Station House Officer in his *eo nomine* capacity. He also can seek damages against the individual, who is officiating as the 5th respondent. Once the civil action is initiated against the individual, he is required to approach the Civil Court and defend himself and

justify why the damages should not be awarded against him. In that way, an effective check can be put against the individuals who are officiating and abusing their office.

Subject to above, the Writ Petition is disposed of. No costs.”

In view of the order in the above-said Writ Petition, this Writ Petition is also disposed of, in terms thereof. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

Date:21.08.2017
Ssv

