

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 27321 OF 2017

ORDER:

This Writ Petition is filed seeking a *mandamus* to declare the action of the 3rd and 4th respondents in involving in civil disputes by summoning the petitioners to the Police Station at the instance of the respondents No.5 and 6 and insisting to settle the civil disputes pending before the Courts, in spite of ad-interim injunction granted in I.A.No.927 of 2013 in L.G.C. No.96 of 2013 passed by the Special Court under A.P. land Grabbing (Prohibition) Act, at Hyderabad and also Interim order dated 31.07.2015 in W.P.M.P.No.30500 of 2015 in W.P.No.3527 of 2015 passed by the this Court, is as illegal and arbitrary.

The case of the petitioners, as can be seen from the affidavit filed in support of the Writ Petition, is that the 1st petitioner is absolute owner of site property admeasuring 880 square yards (440+440) situated in Koretepadu (V) (presently Vidyanagar) in Guntur Mandal, vide Document Nos.116312 and 11848 of 1984 dated 22.09.1984 and 27.09.1984 respectively and the 2nd petitioner is absolute owner of site property admeasuring 1961 (480+480+475+526) square yards situated in Sy.No.51/B of Koretepadu (V) (presently Vidyanagar) in Guntur (M), vide Document Nos.1462; 1463 of 1995, 3964 and 2628 of 2008 respectively and they have been in peaceful possession and enjoyment of the subject property without any interruption by anyone. It is further case of the petitioners that 5th respondent without having any right, title, interest or possession executed illegal sale deeds in favour of third parties behind their back, as such they filed a suit in O.S.No.85 of 2016 against the 5th

respondent and others on the file of learned III Additional District Judge at Guntur, with respect to 1481 square yards (480+475+526) for permanent injunction and further submitted that in the year 2013 the 5th respondent without any manner of right, title, interest or possession encroached some portion of the property belonged to them by forming unauthorised layout in the name and style of J.P. Builders and formed a road illegally in some portion of the property, then they filed land grabbing case against the 5th respondent in L.G.C.No.96 of 2013 on the file of learned Special Court constituted under Andhra Pradesh Land Grabbing (Prohibition) Act at Hyderabad and obtained temporary injunction in their favour on 10.10.2013 and both the cases are pending for adjudication. While the things stood thus, at the influence of the 5th and 6th respondents, the official respondents especially 3rd and 4th respondents are interfering with their peaceful possession and enjoyment of the above properties and 3rd respondent has taken the 1st petitioner forcefully to his police station on 09.08.2017 at about 8 a.m. and insisted to settle the civil disputes pending with the 5th respondent and at the same time 6th respondent sent his henchmen to 3rd respondent and threatened the 1st petitioner with dire consequences to settle the civil disputes with the 5th respondent and also threatened to withdraw the civil cases pending before the Courts. It is further submitted that even though they showed their right, title and possession over the aforesaid site properties, respondents 3 and 4 are repeatedly calling the 1st petitioner to the police station and compelling them to vacate from the aforesaid properties and to withdraw the civil cases pending before the courts against the 5th respondent. Hence, the present Writ Petition.

Heard learned counsel for the petitioners.

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

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 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

¹ (2006) 8 SCC 1

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