

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.22902 of 2017

Date: 04-09-2017

Between:

Gunda Venkanna

... Petitioner.

And

The State of Telangana,
Home Department,
Rep by its Secretary,
Secretariat, Hyderabad and others.

... Respondents



THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.22902 of 2017

ORDER:

This writ petition is filed to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondents 2 to 5 in collusion with respondents 6 to 10 in not giving protection to the petitioner to safeguard the possession of the petitioner over the schedule property consisting of two shutters and open place to an extent of 1210 square yards in Sy.No.227/A, situated at Buggabaigudam Village, Vemulapally Mandal, Nalgonda District in the light of the injunction order and police protection order granted in I.A.No.314 of 2016 dated 23-08-2016 and IA.No.631 of 2016 dated 31-03-2016 respectively in O.S.No.58 of 2016 and in threatening the petitioner not to enter into his property at the instance of respondents 6 to 10 is highly arbitrary and illegal.

2. The facts are not in dispute. The case of the petitioner is that petitioner was granted prohibitory temporary injunction by order dated 23-08-2010 in I.A.No.314 of 2016 in O.S.No.58 of 2016 on the file of learned Senior Civil Judge at Miryalaguda and the said temporary injunction was made absolute restraining respondents 6 to 10 in Writ Petition from interfering with the possession of the petitioner. In spite of the said orders, as the respondents interfering with the possession over the suit schedule properties, orders are passed on merits after hearing of both parties. Complaining the violation of the said orders and seeking police protection, petitioners filed I.A.No.631 of 2016 in I.A.No.314 of 2016 in O.S.No.58 of 2016, which was also ordered on 31-03-2017, after hearing and after taking into consideration of the respective contentions. The sum and

substance of the order dated 31-03-2017 passed by the learned Senior Civil Judge is to the effect that the respondent-police shall grant protection to safe guard the rights and possession of the plaintiff i.e., the petitioner herein over the suit schedule properties and ensure implementation of prohibitory temporary injunction order granted in favour of the petitioner in I.A.No.314 of 2016 in O.S.No.58 of 2016, dated 23-08-2016.

3. A counter affidavit is filed on behalf of the S.H.O., in which Paragraph No.8 reads as under:

"I humbly submit that I assure to this Hon'ble Court as long as the police protection orders in I.A.No.631/2016 in I.A.No.314/2016 in O.S.No.58/2016 dated 31.3.2017 are in force, this respondent shall provide police protection to the suit schedule lands of the petitioner herein."

4. The learned counsel appearing for the respondents 6 to 10 submits that the orders granted by the learned Senior Civil Judge both in I.A.No.314 of 2016 & I.A.No.631 of 2016 in O.S.No.58 of 2016 are erroneous and as a matter of fact, CMA No.5 of 2017 before the Additional District Judge, Miryalaguda & CRP No.2428 of 2017 before this Court, are pending and in that view of the matter, there shall not be any direction to the respondents.

5. The arguments of the learned counsel for the respondents 6 to 10 is liable to be rejected, if the said argument is to be accepted, it would be making mockery of the orders granted by the Civil Court as well as subverting the entire judicial system.

6. As rightly contended by the learned counsel for the petitioner, as long as the orders of the Court are validly standing and neither vacated nor modified, the orders are required to be implemented.

It may be noted in this particular case, the Court below not only considered the matter on merits and also further considered the fact in an elaborate order whether orders are required to be granted police protection or not.

7. However, so far as the respondents 1 to 5 are concerned, the observations made in the present writ petition disposing of the present order shall not be construed as expressing any opinion on merits of the matter.

8. In those circumstances and taking into consideration of the stand of the S.H.O., in the counter affidavit, the writ petition is disposed of with a direction to the S.H.O., to implement the orders of the Civil Court in I.A.No.314 of 2016 in letter and spirit, failing which the 5th respondent shall be exposing himself both to the Contempt of Court of the orders of the I.A.No.314 of 2016 and further orders of this Court.

9. With above observations, the writ petition is disposed of. No costs.

10. As a sequel, miscellaneous petitions, if any, pending in this writ petition, shall stand closed. No costs.

JUSTICE CHALLA KODANDA RAM

Date:04-09-2017.

mrh

