

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 10920 of 2015

ORDER:

Heard learned counsel for the petitioners and learned Government Pleader for Revenue.

2. The present Writ Petition came to be filed seeking issuance of writ of Mandamus declaring the action of respondent No.2 in issuing proceedings in R.C.No.E4/ 2503/ 2014, dated 15.07.2014 as illegal and arbitrary and without any jurisdiction.

3. The petitioners claim to be in possession of various extents of lands situated in Survey Nos.280, 281, 282, 283 and 272/ 1 of Govindampalli Village, Bukkarayana Samudram Mandal, Anantapuramu District. It is the case of the petitioners that though they laid huts in the above said land, some private persons started entering into the said land claiming to be assignees of the said land. Pursuant to a complaint made to the second respondent, impugned proceedings came to be issued, wherein respondent Nos.4 and 5 were directed to carryout the eviction of encroachments in the said land by addressing police department. The main ground urged by the counsel for the petitioners is that though the land is not a Government land, the action of the authorities in trying to dispossess them without following due process is illegal and improper.

4. On 20.04.2015, this Court while issuing *rule nisi*, granted interim stay of the impugned proceedings. The unofficial respondents filed a counter vide W.V.M.P.No.5254 of 2016 denying the averments made in the writ petition. It is their case that the said lands are not Government lands and that they belong to private parties. The averment in the affidavit is that Mr.A.R.Padha Krishna Rao and B.Venkateswara Rao complaining to the

second respondent claiming ownership of the said land is false, since the said A.R.Padha Krishna Rao died on 26.03.2013. It may be true that the said A.R.Padha Krishna Rao died in the year 2013, but there is no specific allegation in the affidavit that said Padha Krishna Rao was responsible for getting the petitioners evicted from the said land. The only averment made is that the said Padha Krishna Rao along with another claimed that the said land was assigned to them. Further, it appears that the present dispute reached this Court earlier in W.P.No.6961 of 2011, filed by said Padhakrishnarao. In the said writ petition, a complaint was made that official respondents therein were not taking action on the representation made by the petitioner therein for removal of encroachments. By an order dated 18.03.2011, this Court disposed of the said writ petition holding that though the petitioner claims to be the owner of the land, but for the purpose of eviction of occupants and recovery of possession, the petitioner therein has to necessarily approach the competent civil Court and that no directions could be granted to the police to take action on such representation. Subsequently, some of the encroachers have filed W.P.M.P.No.22391 of 2011 in W.P.No.22391 of 2011 wherein this Court passed the following interim order:

“*Status quo* as on today shall be maintained until further order. It is made clear that this order shall not preclude either the official respondent or the unofficial respondent from taking steps to have the petitioners evicted from the lands in accordance with law.”

It appears that on the basis of the above interim order, the Joint Collector passed the impugned order directing the Revenue Divisional Officer and the Tahsildar to take police assistance in evicting the alleged encroachers, who are writ petitioners in the present writ petition. Further, it is admitted fact that in the counter affidavit filed by the revenue authorities in W.P.No.22391 of 2011, it was stated that the lands

in question therein, are treated on par with patta lands, and as such the question of issuing notices under the A.P.Land Encroachment Act, 2005 would not arise.

5. Therefore, from the earlier orders passed by this Court which are referred to above, it is clear that the lands in dispute are not Government lands. Hence, neither the revenue nor the police authorities have any jurisdiction to take any action much less an action of eviction of encroachers, as alleged in the impugned proceedings. The owners of the said private patta lands have to necessarily take recourse to common law remedy by invoking the jurisdiction of the competent civil Court. Hence, the impugned proceedings viz. in R.C.No.E4/ 2503/ 2014, dated 15.07.2014, are set aside, however, with a direction to the parties to approach the appropriate Civil Court for redressal of their grievance.

6. Accordingly, the writ petition is allowed. Consequently, W.V.M.P.No.5254 of 2016 shall stand closed.

Miscellaneous petitions, pending if any, shall also stand closed in the light of this final order. No costs.

JUSTICE C. PRAVEEN KUMAR

05.01.2017
vhb