

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

W.P.No. 26366 of 2016

ORDER:

This writ petition came to be filed seeking issuance of a writ of mandamus, to declare the action of the 1st Respondent-Police in interfering with the civil disputes, raised by the 5th respondent against the Petitioner, in respect of house bearing No.8/ 1, B-Block, Vasavi Colony, Picket, Secunderabad, as illegal, arbitrary and incorrect, and consequently to direct the Respondents-Police not to entertain the civil dispute between the parties and threaten the petitioner.

2. It is stated by the petitioner that the Respondent No.5 is his sister-in-law, being the wife of his brother K.Ravi Kumar. The petitioner got a house constructed at Plot No.8/ 1, situated at Vasavi Colony, Picket, Hyderabad, with his funds, and therefore, his father executed a registered settlement in his favour on 04.03.2015, settling the entire building in his favour. The 5th respondent, without having any right, title or interest over the said house, is trying to create litigation, and pressuring him, with the help of the Respondents-Police seeking half of the share in the said house. Hence, the writ petition.

3. A counter came to be filed by the 1st respondent denying the interference of the police, and further stating that the police advised both the parties to approach the Civil Court for redressal of their grievance.

4. The 5th respondent also filed a counter stating that she being the wife of petitioner's brother, is entitled for the share in the said house, and taking advantage of her husband's sickness, the petitioner and his wife harassed her like anything, with the help of the Respondents-Police. As the present writ petition is filed suppressing all facts, sought for dismissal of the writ petition.

5. At the time of hearing, the learned Government Pleader for Home denies the interference of the police in the civil dispute between the parties and reiterates the contents of the counter.

6. A perusal of the rival contentions clearly shows that there exists a civil dispute between the parties with regard to a house. It is to be noted that this Court in *G.B.C.Raj Gopal vs. The Government of A.P. Rep., by its Principal Secretary, A.P. and others* in W.P.No.34137 of 2013, vide order dated 24.04.2014, while dealing with power of adjudication of civil/ property dispute held as under:

“POWER OF ADJUDICATION OF CIVIL/ PROPERTY DISPUTES IS CONFERRED ONLY ON THE JUDICIARY AND NOT ON POLICE OFFICERS.

Maintenance of peace and public order, prevention of crime and investigation of cognizable offences are functions which Police Officers are, statutorily, obligated to discharge. While [Section 154\(1\)](#) Cr.P.C confers power, and casts a duty, on the police officer to register a cognizable offence, [Section 155](#) Cr. P.C. enables a police officer to make an entry in the appropriate register, regarding information relating to a non-cognizable offence. He cannot investigate a non-cognizable offence without the order of the Magistrate.

As a necessary corollary, any attempt by a police officer to investigate a complaint, which does not contain allegations of the commission of a cognizable offence, without permission from the Magistrate would violate [Section 155\(2\)](#) Cr. P.C and is, *ex facie*, illegal. There is no presumption in law that every rift in human relations would lead to a civil dispute, and a civil dispute is likely to result in clashes resulting in offences against the human body. A Police Officer would not be justified in saying that he/she is examining a complaint which, *ex facie*, has the trappings of a civil dispute. (S Masthan Saheb¹¹). Even if a civil dispute has a criminal element, which falls within the ambit of a cognizable offence, with the potential of a law and order problem posing threat to the society at large, a Police Officer can take up investigation only after registering the complaint under [Section 154](#) Cr.P.C. ([Lakshmi @ Lakshmamma v. Commissioner of Police](#))...

The function of resolving civil disputes is entrusted to the judiciary. Police officers lack jurisdiction to interfere in civil/property disputes between two citizens. Even in criminal case, their role is limited to the registration of complaints and causing investigation. The power to adjudge whether or not an accused is guilty of having committed a criminal offence, and to convict and sentence him therefor, is vested exclusively in the judicial branch of the State. Judicial power cannot be exercised by agencies outside the judicial orbit and, where there is no legislative foundation for exercise of judicial power by a forum, it has no legal capacity to entertain requests for adjudication. Judicial power is a facet of sovereign power and can be conferred only by a Statute or by a Statutory instrument. It cannot be assumed *suo motu*. No authority may exercise adjudicatory powers absent a conferment of such powers by Statutory instruments. The coercive power of the State may not be employed to adjudicate

disputes. (M/s. Janathaeem Industries Ltd., rep., by its Public Relations Officer M.S. Ganesan, Vijayawada. v. The District Collector, Krishna district at Vijayawada)”.

... ..

Police officers should not usurp, or even seem to usurp, judicial functions of adjudication or to summon and force persons to resolve their inter-se civil disputes in a particular manner under the guise of family counselling”.

7. Further, in para 65 of the said judgment, while dealing with issue of forcibly summoning a person to the police station, this Court observed as under:

“No person can be forcibly summoned to a police station except in accordance with law, including the provisions of the [CrPC](#). Exercise of power by police officers, and the mode and manner of its exercise, is circumscribed by the provisions of the [CrPC](#). Conferment of power is only to enable police officers to effectively discharge their statutory/legal obligations. Exercise of power, otherwise than in furtherance of a statutory/legal duty, is an abuse of power”.

8. In view of the above judgment and having regard to the rival submissions made on behalf of both the parties, without going into merits of the case, the Writ Petition is disposed of directing the Respondents-Police not to interfere with the personal life and liberty of the petitioner or in any civil disputes, pending between the parties and not to summon the petitioner to the police station, without following due process of law. However, if the respondent police intend to take any action against the parties, the same shall be in accordance with law.

9. The writ petition is accordingly disposed of. As a sequel, the miscellaneous petitions, if any pending, shall stand closed accordingly.

Dt. 12..07..2017
Kv

C. PRAVEEN KUMAR, J



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