

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.45167 of 2016

Order:

This Writ Petition was filed seeking a direction to the respondents 2 to 4 to allow the petitioners to enjoy the household property bearing House No.20-3-375, 352 and 353, situated at Moosabowli, Hussainialam, Hyderabad.

The petitioners state that they are the owners of the said property, having purchased the same under a registered sale deed dated 17.10.2005 and gift deed dated 09.05.2005. The husband of the first petitioner is a practising advocate for the last 17 years and also residing with the first petitioner. The petitioners 2 to 5 are the children of the first petitioner who are pursuing their education. It appears that there were some family disputes between the husband of the first petitioner and his relatives. The petitioners state that in a span of 3 to 4 months six criminal cases were registered. It is also their case that on 03.10.2016 in their absence a mob attacked their house. Though the petitioners tried to reside in their house, due to the respondents 3 to 10 they are not able to reside in the house. The petitioners house property is in 180 sq. yards consisting of three floors and they had to leave that house because of sudden attacks, leaving behind all their valuables in the house. The husband of the first petitioner possessed a licensed weapon and the licence expired on 29.10.2016. In those circumstances, they filed the above Writ Petition.

The fourth respondent filed a counter stating that one Mirza Zafar Baig, S/o Mirza Khaleel Baig, a resident of Moosa Bowli, Hyderabad, approached the police of Hussaini Alam Police Station, Hyderabad and

lodged a complaint on 03.10.2016 stating that eight (8) persons with a common intention conspired to commit day light murder of his innocent father for the sake of 50 sq. yards and murdered Mirza Khaleel Baig in cold blood. Basing on the said complaint, Crime No.228 of 2016 was registered by the Hussaini Alam Police Station, Hyderabad on 03.10.2016 and investigation was taken up. During the course of investigation, the Investigating Officer examined the complainant and some other witnesses and recorded their detailed statements. During the course of investigation, it came to light that there were some property disputes between the deceased and the persons involved in the offence. Pursuant to the registration of the crime, A2, A7 and A8 were arrested on 16.10.2016 and they were remanded to judicial custody. The remaining accused were absconding. The weapons used in the offence are yet to be recovered. It also revealed that A6, Mirza Khadeer Baig who is the elder brother of the deceased, is also a prime conspirator and he is absconding. During the personal enquiries it revealed that the husband of the first petitioner, Mujabulla Shareef purchased disputed land of an extent of 58 sq. yards on 16.01.2016 from the brother of the deceased and the said brothers were fighting against each other with regard to the said property. During the period from 16.01.2016 to 03.10.2016 lot of disputes arose and several cases were filed against each other. The first petitioner's husband and her son are shown as A1 and A3 in Crime No.228 of 2016 and both of them are absconding along with their family members and their whereabouts are not known till date. The police are investigating the sensational murder case and they never interfered with the property of the first petitioner. Since the date of offence on 03.10.2016 the property of the first petitioner was locked by themselves. There was no

complaint of whatsoever was received from them regarding damage to the property. A police picket was also arranged in order to avert any law and order problem.

In view of the above averments, since the present Writ Petition is filed only to protect the property of the petitioners, it is for the petitioners to take appropriate proceedings in accordance with law. As per the counter affidavit the police are saying that a police picket was also posted near the house in order to avert any law and order problem.

In the circumstances, giving liberty to the petitioners to take appropriate proceedings in accordance with law, this Writ Petition is disposed of, as no relief can be granted in exercise of the power under Article 226 of the Constitution of India. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 02.02.2017
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