

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 28765 of 2016

ORDER:

1) The present writ petition came to be filed with the following prayer:

“seeking issuance of writ of mandamus declaring the action of respondent No.1 for not considering the petitioner’s application dated 11.07.2016 by giving proper directions to respondent Nos.2 and 3 to implement the injunction order granted by the Competent Civil Court under common law remedy in I.A.No.115 of 2016 in O.S.No.51 of 2016 on the file of the Senior Civil Judge, Suryapet, as arbitrary and illegal; and consequently direct respondent Nos.1 to 3 to implement the injunction order and further direct respondent No.3 to complete the investigation in Cr.NO.85 of 2016 of Tirumalagiri Police Station, registered by respondent No.7.”

2) The case of the petitioner is that pursuant to an application made, the respondent No.4 after conducting enquiry passed an order on 21.11.2015, canceling the pattadar pass books and title deeds issued to respondent Nos.8 and 9; and further directed respondent No.5 to conduct a denovo enquiry and place the report. Thereafter, the respondent No.5 conducted an enquiry and submitted a report, wherein he made an observation that the lands belong to petitioner herein and that respondent Nos.8 and 9 do not have any right, title and possession over the said property. In spite of the said finding, the petitioner herein was forced to file

O.S.No.51 of 2016, seeking declaration of the suit schedule property admeasuring Ac.7.05 cents in Sy.No.628 of Phanigiri Revenue Village, Tirumalagiri Mandal, Nalgonda District. Along with the suit, he also filed I.A.No.115 of 2016, seeking ad-interim temporary injunction. After due enquiry, the trail Court granted interim injunction, which was initially given for limited period and later extended from time to time. As respondent Nos.8 and 9 violated the said injunction order by forcibly entering into the land and cutting the Neem Wood logs, the petitioner lodged a report before respondent No.7, which lead to registration of a case in Crime No.85 of 2016 for the offences punishable under Sections 447, 427, 506, 109 read with 34 IPC. Subsequently, the petitioner filed I.A.No.230 of 2016 seeking police protection, which is pending. Having regard to the litigation between the parties and taking into consideration the injunction order passed by the civil Court, the petitioner herein made a representation to the police to give police protection. Their inaction to grant police protection is subject matter of challenge in this writ petition.

3) It is not in dispute that the suit was filed in the year 2016 and the civil Court granted interim injunction in favour of the petitioner.

4) By an order dated 26.08.2016, this Court while admitting the writ petition, passed the following order:

“Having regard to the order dated 22.03.2016 in I.A.No.115 of 2016 in O.S.No.51 of 2016 passed by the

Senior Civil Judge, Suryapet, and the learned counsel for the petitioner states that the said order is extended upto 15.09.2016, there shall be interim direction as prayed for.”

5) Thereafter, a counter came to be filed by respondent Nos.8 and 9, disputing the averments made in the affidavit filed in support of the writ petition. It is stated that the respondents are in possession of land admeasuring Ac.7.05 gts., in Sy.No.628 and their names were also mutated in the revenue records. It is also stated that the petitioner filed an appeal before the Revenue Divisional Officer, on untenable and unsustainable grounds, which was remanded back to the Mandal Revenue Officer, for denovo enquiry. Aggrieved by the same, the respondents filed a revision before the Joint Collector, Suryapeta. After remand, the Mandal Revenue Officer, conducted an enquiry and found that these respondents are in possession of the lands in Sy.No.628. It is also stated that the respondents never violated the injunction order granted by the trial Court. Under the guise of injunction order, the petitioner is virtually harassing the respondents and also interfering with their possession.

6) At the time when the matter is taken up for hearing, the main ground urged by the learned counsel appearing for respondent Nos.8 and 9 is that the petitioner was never in possession of the schedule property and basing upon stray entries made in the pahanies, he made false allegations and by suppressing the true and material facts before the civil Court

obtained injunction order. According to him, respondent Nos.8 and 9 have leased out their lands for grazing of sheep to Vardam Ramachandru, Mandra Yellaiah, Mandra Biksham and Jatangi Lingaiah of Mamidipalli village. In the year 2016, they ploughed the lands and made it fit for cultivation. At that point of time, the petitioner obtained exparte injunction order.

7) The question now is as to who is in possession of the property. The contention of the petitioner is that though he is in possession of the property and in spite of the injunction order granted by the trial Court, the police failed to give police protection. But the counter filed by the police show something else. It is stated in the counter that on 16.06.2017 and 17.06.2017 when the petitioner, his son and wife ploughed the agriculture land with the tractor, the police protection was given and a panchanama to that affect was also obtained. The counter filed by the police would show that they are ready to provide police protection as and when required by the petitioner herein. As seen from the contents, the police proceeded to the land and gave police protection, enabling the petitioner to cultivate the land.

8) Having regard to the above, the writ petition is disposed of, holding that if the petitioner is in possession of the property, the respondent-authorities shall provide police protection to implement the injunction order passed by the civil Court, in accordance with law. If the police are not taking any steps in

completing the investigation in Crime No.85 of 2016, the petitioner is at liberty to avail the remedies available under law.

9) There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

20.07.2017
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