

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

W.P.NO.22968 OF 2017

ORDER

As per the averments made in the writ affidavit, petitioners purchased the subject property from the unofficial respondent No.4 under a registered sale deed dated 25.06.2001 and have been in possession and enjoyment since then. But the 4th respondent with an evil intention, filed O.S.No.1232 of 2005 on the file of Principal Junior Civil Judge at Mancheriyal against the petitioners in respect of the very same property, for bare injunction, which was dismissed for default on 20.11.2008. The grievance of the petitioners is that at the instance of 4th respondent, the 3rd respondent – Sub Inspector of Police, Mandamarri, summoned the petitioners to the police station on 3.7.2017 and threatened them with dire consequences and also extracted an undertaking from them that they would not enter into the subject property. Alleging interference of police in civil dispute, the present writ petition came to be filed.

Though various grounds are raised, learned counsel for the petitioners mainly submits that the respondent police may be directed not to call the petitioners to the police station, without following due process of law.

The learned Assistant Government Pleader for Home, on instructions, denying the allegations of the petitioners, submits that if any action is sought to be taken, the same would be in accordance with law.

It is to be noted that this Court in *G.B.C.Raj Gopal vs. The Government of A.P. Rep., by The Principal Secretary, Home Department,*

Secretariat Buildings, Secretariat, Hyderabad, A.P. and six 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:

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

50. 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 @ Lakshamma v. Commissioner of Police](#)).

51. 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)”.

52. While the inordinate delay, in resolution of civil disputes before Civil Courts of competent jurisdiction, is undoubtedly a cause of concern that does not justify Police Officers exercising powers, conferred exclusively of the judicial branch of the State, to adjudicate civil disputes. While the need to strengthen judicial institutions, and to reduce the inordinate delay in disposal of Civil Suits, cannot be over-emphasised, the highhanded acts of police officers in seeking to resolve civil disputes, that too in the precincts of a police station, must also be sternly dealt with. Just as Courts would not undertake investigation of criminal offences, as these are matters in the exclusive realm of the investigating agency, the powers conferred and the duties cast upon Police Officers, under [the Criminal Procedure Code](#), is only to register complaints regarding cognizable offences and investigate thereinto; and not adjudicate even criminal cases, much less resort to settlement of civil disputes.

53. 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”.

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

“65. 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”.

Without going into merits of the case; having regard to the submissions made and in view of the judgment referred to above, the Writ Petition is disposed of directing the respondent police not to interfere with the personal life and liberty of the petitioners or any civil disputes pending between the parties and not to summon the petitioners 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. No costs.

Consequently, miscellaneous petitions, if any pending, shall stand closed.

12.07.2017
AVS



JUSTICE C. PRAVEEN KUMAR