

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 27468 OF 2017

ORDER:

This Writ Petition is filed seeking a *mandamus* to declare the action of the respondents 3 to 5 and their staff in coming to the house of the petitioner and calling him to the 4th respondent's police station and threatening to follow their dictates, under the influence of the 6th respondent, as illegal and arbitrary.

The case of the petitioner, as can be seen from the writ affidavit filed in support of the Writ Petition, is that the 6th respondent got issued notice to the petitioner through an Advocate on 4.7.2017 falsely claiming that the 6th respondent had purchased the land admeasuring Acs.2.19 guntas in Sy.No.1362/AA, AB from its owner, jointly and had made the same into plots by taking necessary permission of layout from the Grampanchyath thereafter the petitioner had sold away some plots and trying to sell the remaining plots and as such the 6th respondent asked the petitioner not to deal with the said plots and not to sell the same to any persons or else the 6th respondent would take action against the petitioner. Thereafter, the petitioner sent a reply to the said notice stating that the land in question was purchased by him through a registered sale deed and no one is having any right or title and the said notice dated 4.7.2017 was issued to falsely claiming the same and the 6th respondent has no way concern with it. While things stood thus, the respondents 3 to 5 sending the constables belong to their police stations and threatening the petitioner to come to the 4th respondent police

station and settle the issues if any with the 6th respondent otherwise, the petitioner will have to face the dire-consequences in the hands of the respondents 3 to 5. It is further stated that the constables of the respondents 3 to 5 have come to the house of the petitioner on 10.8.2017 and 11.8.2017 when the petitioner was not in his house and threatened the petitioner's family members by saying that the petitioner has to come to the 4th respondent police station and agreed to their dictates. Hence, the present writ petition.

Heard learned counsel for the petitioner.

Learned Government Pleader for Home, on oral instructions, submits that the allegations made in the affidavit are all false.

It is time to observe that day in and day out, this Court is flooded with Writ Petitions of the present nature and complaints are being lodged with the Superintendent of Police/Commissioner of Police against the Station House Officers concerned alleging that they are interfering with the civil disputes and in that connection, detaining one party illegally, at the instance of the other. Normally, in such cases, when this Court issues notice, the police officials have been giving instructions denying the allegations made against them. Though there is no order, in writing, seeking their appearance before the police station, out of fear, the petitioner, for that matter, the other citizens are constrained to attend the respective police station. In this scenario, this Court takes judicial note of these aspects occurring on daily basis.

As a matter of fact, the Apex Court in 2006 itself, while rendering judgment in ***Prakash Singh v Union of India***¹, made certain recommendations and directed them to be binding on the State Governments. A learned Judge of this Court also considered the subject issue, in detail, in Writ Petition No. 14072 of 2016 and batch. After taking notice of the judgments of the Supreme Court, the learned Single Judge *vide* judgment dated 27.04.2017, had directed to implement the ruling rendered in ***Prakash Singh's*** case, the operative portion of which reads as under:

“ In view of the above legal position, these Writ Petitions are disposed of directing the Principal Secretaries to Governments, Home Departments of Telangana and the Andhra Pradesh to constitute a ‘State Security Commission’ and a ‘Police Complaints Authority’ as directed by the Supreme Court in ***Prakash Singh***, by co-opting the Member Secretary of the State Legal Services Authority of the concerned States as Member of the State Security Commission and the Secretary of the District Legal Services Authority as a Member of the Police Complaints Authority at the District Level. Since more than a decade has passed after the Supreme Court issued directions and there is an urgent need to create a mechanism for redressal of the grievances of the public in respect of police actions, the “State Security Commission” and the “Police Complaints Authority” shall be constituted as expeditiously as possible not later than three months from the date of receipt of a copy of this order and on such constitution, the complaints of the petitioners in the above three writ petitions, shall be sent to the State Security Commission for further action since there was failure on the part of the Superintendents of Police concerned in taking action by investigating into the complaints. On constitution of such Commission and Authority, wide publicity shall be given

¹ (2006) 8 SCC 1

in the print and electronic media in order to educate the general public.”

In that view of the matter, since the State is yet to take steps, as directed by this Court, in terms of **Prakash Singh's** case, the 2nd respondent-Superintendent of Police, Jagtial District, Jagtial, shall initiate necessary disciplinary action, if warrants against the respondents 3 to 5.

It may also be noted that the petitioner shall be entitled to seek injunctive relief against the 6th Respondent and the respondents 3 to 5 in their *eo nomine* capacity. He also can seek damages against the individuals, who are officiating as the respondents 3 to 5. Once the civil action is initiated against the individuals, they are required to approach the civil Court and defend themselves and justify why the damages should not be awarded against them. In that way, an effective check can be put against the individuals who are officiating and abusing their office.

Subject to above, the Writ Petition is disposed of. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

18th August 2017
Gk

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Date:18.08.2017

Gk

