

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.19570 of 2017

ORDER:

Heard Sri K.V.Simhadri , learned counsel for the petitioner
Sri M.Damodar Reddy, learned counsel for the 4th respondent and
learned G.P. for Home for official respondents and perused the
record.

2) Seeking issuance of writ of mandamus to declare the
action of the second respondent in not entertaining the complaint
made for police protection, as illegal and arbitrary, the present Writ
Petition is filed.

3) Facts in issue are as under:

The petitioner herein claims to be the absolute owner and
possessor of the schedule property. He purchased the same by way of
a registered sale deed dt:12.01.2015 vide DoclNo.140/2015 by which
possession was delivered to him. Pattedar passbooks and title deeds
were issued in the name of the petitioner and his name was said to
have been recorded in the revenue records. While things stood thus,
respondents 3 to 5 started trying to interfere with the property of
the petitioner. It is averred that property originally belongs to one
Kannendra Rajesh, who sold the same to one Boina Lakshmi, the third

respondent herein, under a registered sale deed dt:08.06.2005. In turn she executed a sale deed dt:21.11.2008 in favour of Kallepalli Yellaiah Srinivas. The said Srinivas is said to have sold the property to the petitioner vide registered sale deed dt:12.01.2015. Due to interference of the respondents, petitioner filed O.S.183 of 2015 before the Principal Junior Civil Judge, Sattenapalli, Guntur District, seeking permanent injunction. In I.A.851 of 2015 filed under Order 39 Rule 1 of C.P.C., an interim injunction came to be passed restraining the defendants from interfering with the suit schedule property. The said order which was passed on 08.07.2015 is still in force. It is said that even after passing of the injunction order the respondents 3 to 5 are interfering with the possession. The averments in the affidavit also show that earlier the petitioner filed I.A.451 of 2017 seeking police aid, but after filing of counter, the same was withdrawn. This action of the respondent in interfering with the possession and no police protection being given in spite of making an application, in view of the interim orders, is subject matter of challenge in the present writ petition.

4) A counter came to be filed by 4th respondent disputing the averments made in the affidavit filed along with the writ petition. While denying the averments made in the affidavit, she states that no explanation is forthcoming as to why the application filed by the petitioner seeking police aid was withdrawn. It is said that since the

injunction order was an ex parte order, which according to the respondent was obtained without disclosing the true facts, the request seeking police protection cannot be granted. It is further stated that a case in Cr.No.73/2015 of Peddakurapadu police station came to be registered alleging that the vendor of the petitioner obtained bogus pattadar pass books by forging the signature of the revenue authorities and thereby the Tahasildar vide proceedings in Rc.No.492/2015 dated 16.07.2015 submitted a report to the Station House Officer, Peddakurapadu, which lead to registration of the above crime. Such being the position, the question of seeking a direction to the very same police station for grant of police protection, more particularly when the injunction order was an ex-parte order, would not arise.

5) A reply came to be filed denying the averments made in the counter. It is sated that the petitioner never involved himself in any crime and his name is not reflected as an accused in the above crime.

6) As seen from the record, basing on the averments made in the plaint, the trial court passed an ex-parte order granting temporary injunction. While granting the same, the trial court ordered to issue urgent notice to the respondents on payment of costs. Immediately thereafter, one of the defendants in the suit

made an application to vacate the injunction order. But for one or other reason, the matter is getting adjourned from time to time. As per the counsel for the petitioner, since the other defendants are refusing to receive notice, the injunction application is getting adjourned from time to time. It is also not in dispute that the application filed by the petitioner seeking police protection was withdrawn after notice was ordered to the defendants.

7) The counsel for the petitioner relied upon a judgment of this Court in W.P.No.30736 of 2016 to show that once there is an order of injunction, the police are bound to provide police protection. It was a case, where the injunction order was granted in appeal holding that the petitioners were in possession of the property and also had *prima facie* over the property. The findings are confirmed by the High Court in C.R.P.No.517 of 2013.

8) The issue before this court is; Whether the High Court can order police protection by invoking its inherent jurisdiction under Article 226 of the constitution of India?

9) The counsel for the respondent relied upon the judgment in **N.G.Vasu v. K.G.Rajashekaraiah**¹ of the Karnataka High Court to show that the police protection cannot be granted based on the *exparte* injunction orders.

¹ 1995 Law Suit (Kar) 580

10) A perusal of the record would show that as on today the ex parte interim injunction order, which was granted in the year 2015, is still in force. The application filed by one of the respondents for vacating the ex parte interim injunction is also pending for consideration before the said court and the same is getting adjourned on one pretext or the other. The main prayer in the writ petition is the inaction of the second respondent in not entertaining the complaint to provide police aid to implement the interim injunction granted in I.A.851/2015, though the interim prayer is for a direction to provide police aid to the petitioner. Since the main writ petition is not disposed of, it may not be necessary to go into aspect as to whether the police protection has to be granted.

11) As the request of the petitioner is only on the inaction of the respondents in not entertaining the complaint for grant of police aid, a direction can be given to second respondent to consider the representation made by the petitioner to second respondent seeking police protection and deal with the same in accordance with law after hearing both the parties. It is needless to mention that if any report is given by the petitioner disclosing commission of any cognizable offence, the respondent should take steps in accordance with law having regard to the order passed by the civil court in I.A. 851/2015.

12) With the above direction, the Writ Petition is disposed of. No costs. Miscellaneous Petitions pending if any in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:20.07.2017
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