

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.17546 OF 2017

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Home for the State of Andhra Pradesh. With their consent, the present writ petition is disposed of at the admission stage itself.

2. Since this Court is not going into the merits of the case, it may not be necessary to issue notice to the unofficial respondents.

3. The Writ Petition, under Article 226 of the Constitution of India, came to be filed seeking issuance of a writ of *mandamus* declaring the action of respondents 2 and 3 in initiating appropriate action against the respondents 4 to 7 pursuant to the petitioner's complaints dated 02.10.2013 and 07.02.2017, as illegal and arbitrary, and consequently, direct respondents 2 and 3 to forthwith take appropriate action against respondents 4 to 7, in accordance with law, based on the reports.

4. The averments in the affidavit filed in support of the writ petition would show that the petitioner took property bearing Door No.5-25-121, 3/1, Brodipet, Guntur, belonging to the 4th respondent on 30.06.2010, on lease for running a hotel and lodge on a monthly rent of Rs.5,000/- for a period of ten years and accordingly, a registered lease agreement was also entered into. He is said to

have paid an amount of Rs.20,00,000/- towards advance to the 4th respondent. On 25.07.2010, the 4th respondent along with his henchmen came to the hotel and demanded the petitioner to give an amount of Rs.20,00,000/- towards goodwill, failing which, to vacate the subject premises. The said incident lead to filing of O.S.No.641 of 2010 on the file of the Principal Junior Civil Judge, Guntur, seeking permanent injunction and ad-interim injunction was granted in favour of the petitioner, which was made absolute while decreeing the suit on 20.10.2010. While things stood thus, on 03.09.2013, the 4th respondent again came to the petitioner's hotel and high-handedly destroyed the furniture, removed the name-board, took away valuable things from the said premises and threatened him to vacate the said premises. This incident lead to lodging of a report in the office of the 2nd respondent - Inspector General of Police, Guntur Range, which was acknowledged on 10.10.2013. Not registering any crime on the basis of the report given by the petitioner is sought to be questioned by way of filing this present writ petition.

5. Learned counsel for the petitioner mainly submits that since the allegations in the report disclose commission of cognizable offence, police ought to have registered a crime and investigated into the same.

6. Learned Government Pleader opposed the same contending that the present writ petition has to be dismissed on the ground of laches.

7. As seen from the record, civil disputes exist between the petitioner and the 4th respondent. The suit filed by the petitioner for permanent injunction was said to have been decreed in his favour. If really an incident of alleged trespass and damage as alleged, is said to have occurred in the month of September, 2013, no plausible explanation is forthcoming from the petitioner as to why he kept quiet for nearly four years in lodging a report to the police. If a report was said to have been given on 10.10.2013, in the Office of Inspector General of Police, no reasonable explanation is forthcoming as to why the petitioner kept quiet till May, 2017.

8. At this stage, learned counsel for the petitioner states that in the month of September, 2016 he gave a representation to the 2nd respondent - Inspector General of Police, Guntur, seeking action to be taken on the basis of the report dated 10.10.2013. But there is no material to show that such a representation was, in fact, given to the Inspector General of Police, however, acknowledgement of the representation dated 07.02.2017 is placed on record. Therefore, directing the police to investigate into a case by registering a crime at this point of time may not be proper. However, if really the petitioner is aggrieved by the inaction, he can take action under the provisions of the Criminal Procedure Code.

9. Accordingly, the Writ Petition is dismissed.

Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:15.06.2017
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