

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.26908 OF 2017

Date 16.08.2017

Between:
Machala Indira.

..... Petitioner

AND

The State of Telangana, rep. by its Principal Secretary, Home
Department, Secretariat, Hyderabad and others.

.....Respondents



HON'BLE SRI JUSTICE CHALLA KODANDA RAM**WRIT PETITION No. 26908 OF 2017****ORDER:**

This Writ Petition is filed seeking a *mandamus* to declare the action of official respondents, in particular, respondent Nos.2 and 3, in interfering with the civil disputes between petitioner and respondent No.4, as illegal and arbitrary.

Petitioner states that she filed O.S.No.52 of 2017 on the file of V Additional Junior Civil Judge, Warangal for partition of land admeasuring Ac.0.26 cents in Sy.No.275 situated at Deshaipet Village, Warangal Mandal and District. When the subject property was sought to be alienated, I.A.No.89 of 2017 was filed seeking ad-interim injunction, and the Court below while ordering urgent notice, directed not to alienate or encumber or create any third party charge till 24.01.2017; and the said order was extended from time to time and subsisted as on date. Respondent No.4, who is a third party, filed I.A.No.1046 of 2017 to implead him in the suit. Petitioner states that at the instance of respondent No.4, respondent No.3 is calling him and his family members to the police station and insisting to withdraw the suit. Hence the writ petition.

Heard learned counsel for the petitioner.

Learned Government Pleader for Home, on written instructions, denies interference of respondent No.3 with civil disputes between petitioner and respondent No.4 and states that the allegations made in the affidavit are false.

While entertaining Writ Petition No. 26557 of 2011, dated 11.08.2017, this Court made the order to the following effect:

“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 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

¹ (2006) 8 SCC 1

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 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 (Rural), Guntur District, with whom the petitioner lodged a complaint against the 5th respondent Station House Officer *on-line* on 15.05.2017, shall initiate necessary disciplinary action, if warrants against the latter.

It may also be noted that the petitioner shall be entitled to seek injunctive relief against Respondents 6 to 8 and the 5th respondent Station House Officer in his *eo nomine* capacity. He also can seek damages against the individual, who is officiating as the 5th respondent. Once the civil action is initiated against the individual, he is required to approach the civil Court and defend himself and justify why the damages should not be awarded against him. 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."

In view of the order in the above-said Writ Petition, this Writ Petition is also disposed of, in terms thereof. No costs.

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

CHALLA KODANDA RAM, J

Dt:16.08.2017
usd

