

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 29474 of 2016

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus directing respondent Nos.1 to 3 and their subordinate police not to interfere with the peaceful possession and enjoyment of the petitioner over the agriculture land admeasuring Ac.4.22 gts., in Sy.No.71/ 1 of Mangurla Village, Jainath Mandal, Adilabad District; and consequently declare the said action of interfering with the peaceful possession and enjoyment of the petitioner over the said land, as illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India.

2) By an order dated 31.08.2016, this Court while admitting the writ petition, passed the following interim order:

“There shall be interim direction to respondent Nos.1 to 3 herein and their subordinate police not to interfere with the peaceful possession and enjoyment of petitioner's agricultural land to the total extent of Ac.4.22 gts., in Sy.No.71/ 1 of Mangurla Village, Jainath Mandal, Adilabad District.”

3) A vacate Stay application came to be filed by the un-official respondents stating that though the writ petitioner is not in possession of the said land, but under the guise of the interim order dated 31.08.2016 passed by this Court, wherein the police are directed not to interfere with the peaceful possession and

enjoyment of the petitioner over the said land, the petitioner is trying to dispossess the un-official respondents, who are in possession of the said land.

4) As seen from the record, there exists a civil dispute between the petitioner and un-official respondents vide O.S.No.44 of 2016 on the file of the Junior Civil Judge, Adilabad. In the said case, the petitioner herein filed I.A.No.86 of 2016 seeking ad-interim temporary injunction against the un-official respondents. By an order dated 07.09.2016, the said application was dismissed holding that “the material placed on record does not establish that the petitioner is in possession of the said property”. The said order of the civil Court came to be passed subsequent to the interim order passed by this Court.

5) At this stage, the learned counsel for the petitioner would submit that he is only concerned with regard to interference of the police officials.

6) Having regard to the above, this Court is of the view that since there is a dispute with regard to possession of the land, the petitioner is at liberty to obtain appropriate orders before the civil Court where the civil proceedings are pending. It is stated that against the order passed in I.A.No.86 of 2016, an appeal has been filed, which is pending. When there is any amount of doubt as to whether the petitioner is in possession of the property, the question of directing the official respondents not to interfere with the possession and enjoyment of the petitioner over the subject

property would not arise. Hence, I see no merits in the writ petition and the same is accordingly dismissed. However, any action to be taken by the police, shall be in accordance with the procedure established under law.

7) 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

04.07.2017
gkv

