

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 26925 of 2016

ORDER:

1) The present Writ Petition came to be filed seeking issuance of writ of mandamus, declaring the action of respondents 5 and 6 in making attempts to dispossess the petitioner from the land admeasuring Ac.0.94.3 cents in Sy.No.173/ 1 of Mukthinutalapadu Village, Ongole, as illegal and arbitrary.

2) The petitioner claims to be absolute owner and possessor of the land referred to above, which he purchased by virtue of registered sale deed dated 26.03.2015 from one Reddipogu Guravaiah, through his GPA holders. Ever since then he claims to be in possession over the property. It is said that due to recent hike in prices, some anti-social elements, who developed an eye over the property, started troubling the petitioner. In order to protect his property, the petitioner claims to have applied to the municipal corporation and also dumped material for raising a compound wall. He also made an application to the Electricity Department, for an electrical connection. About a week prior to filing of the writ petition, a constable from the 6th respondent police station, asked the petitioner to come to the police station. On the very next day ie., on 12.07.2016, some unknown persons came to his land and threatened him to sell the land at a meager price, failing which they threatened to

encroach on to his land. Apprehending interference by the revenue and police officials, the present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents 5 and 6 in making attempts to dispossess the petitioner from the land referred to above, without following due process of law, as illegal, arbitrary and incorrect.

3) By an order dated 16.08.2016, this Court granted interim direction as prayed for.

4) Subsequently, one Gundavarapu Srinivaslu, got himself impleaded as 7th respondent and filed vacate stay application along with the counter, denying the ownership of the petitioner over the said land and also his purchase from a valid sale consideration vide registered sale deed dated 26.03.2015 and that these documents are invented for the purpose of this case. He also denied the involvement of official and un-official respondents in interfering with the possession and enjoyment of the property. On the other hand, the plea of the 7th respondent appears to be that the petitioner himself is troubling him by hook or crook and is trying to take over the property. According to him, though he gave a complaint against the petitioner, the 6th respondent police are not registering any crime against him. It is stated that the apprehension of the petitioner as alleged in the affidavit is an illusionary and that he has no right, title and interest over the property. It is said that originally the property

in question belongs to one S.Ayyanna and in succession his five sons inherited the same. One of his son by name Ramanayya, relinquished his right in favour of his four brothers vide relinquishment deed No.12/ 1973. One Visalakshi purchased the land from those four brothers vide document No.2981 of 1980, from whom the father of the 7th respondent purchased an extent of 150 gadis out of an extent of 66 ½ cents in Sy.No.173, vide sale deed No.1243/ 1986. Since then his father was in occupation and enjoyment of the same till he executed the registered settlement deed on 17.04.2010 vide document No.6211/ 2010. The averments in the counter also show filing of O.S.No.549 of 2009 on the file of the III Additional Junior Civil Judge, Ongole, for permanent injunction against the so called vendor of the writ petitioner by name Guravayya and two others, restraining them from interfering with his peaceful possession and enjoyment which was decreed on 15.04.2011. Therefore, the claim of the petitioner that he purchased the land in question from one Guravayya, who got the said property from one Veeramma, is false. Having regard to the above, he submits that the petitioner has no right over the property.

5) As seen from the averments in the affidavit and the counter filed, there exists a dispute between the parties over the title. On one hand, O.S.No.549 of 2011 filed by the father of the petitioner seeking permanent injunction against the vendor of the petitioner by name Guravayya and two others,

was decreed, while on the other hand, the claim of the petitioner is that he purchased the property from one Reddipogu Guravaiah, who got the property by virtue of un-registered will dated 19.05.1999, from one Veeramma, who said to have inherited this property from her ancestors. But at the same time, it is also to be noted that a survey was conducted in the year 1977 in respect of land in Sy.No.173, which does not refer to the names of the vendors of the petitioner in any of the proceedings. If really the vendor of the petitioner has got title, by way of un-registered Will, the same should have been reflected in those proceedings. Be that as it may, it is a clear case where there is a rivalry between two private individuals over the property in question and each of them is throwing blame on the other. Hence, this Court while exercising jurisdiction under Article 226 of the Constitution of India cannot decide the factual aspects and the proper forum would be the civil Court.

6) Having regard to the above, the writ petition is disposed of, giving liberty to the parties to approach the civil Court.

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

12.10.2018
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