

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.9492 of 2018

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief:

“For the reasons stated in the accompanying affidavit the Petitioner herein prays that this Honourable Court in the interests of Justice be pleased to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd Respondent in interfering with the petitioner’s land to an extent of Ac.0.81 cents and Ac.0.14 cents totally Ac.0.95 cents situated in Sy.No.103 of Tunglam Village, Gajuwaka Mandal, Visakhapatnam District under the guise of complaint lodged by the 4th Respondent in Crime No. 99 of 2018 while pendency of civil litigation as highly illegal, arbitrary and contrary to Articles 21 and 300A of the Constitution of India and issue consequential directions to the 3rd Respondent not to interfere with the petitioner’s land to an extent of Ac.0.81 cents and Ac.0.14 cents totally Ac.0.95 cents situated in Sy.No.103 of Tunglam Village, Gajuwaka Mandal, Visakhapatnam District in any manner in pursuance of Crime No. 99 of 2018 and pass such other or further order or orders as are deem fit and proper in the circumstances of the case.”

2. I have heard the submissions of Sri *P.Rajkumar*, learned counsel appearing for the petitioner, and of the learned Government Pleader for Home (A.P.) appearing for the respondents 1 to 3. I have perused the material record.

3. Though the writ petition is filed seeking the above relief, at the hearing, learned counsel for the petitioner would submit that if a direction is given to the police not to interfere with the civil matter, which is *sub judice* before a competent appellate Court, the ends of justice would be met. Learned counsel for the petitioner would further submit as follows: “The petitioner obtained a decree.

The appeal preferred by the 4th respondent herein is pending. The petitioner approached the police with a report, dated 12.02.2018. The police, without receiving the said report, stated that the police are not going to interfere in a civil matter and advised the petitioner to approach the civil Court. However, at the same time, they received the report lodged by the 4th respondent and registered a crime against the petitioner and are interfering in a matter, which is purely of civil nature and which is *sub judice*. The Police acted and are acting in a biased manner.'

4. Learned Government Pleader for Home would submit that the respondents approached the police and lodged a report, dated 14.02.2018, alleging criminal trespass into the subject property and that, therefore, following the procedure established by law, a crime has been registered and investigation is taken up and that the police are not interfering with the civil matter, which is *sub judice*, but are only taking steps for conducting investigation, in strict accordance with procedure established by law and, therefore, the allegations in the writ petition are false and the writ petition is not maintainable.

5. In reply, learned counsel for the petitioner would submit that the petitioner is also suitably advised to file appropriate proceedings for quashing the criminal proceedings, which are purely related to a matter of civil nature.

6. Recording the submissions, the Writ Petition is disposed of directing the 3rd respondent to conduct investigation into the crime registered, in strict accordance with procedure established by law,

keeping in view the fact that the civil matter is *sub judice*. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

M.SEETHARAMA MURTI, J

Date: 22nd March, 2018

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