

**THE HON'BLE SRI JUSTICE S.V.BHATT**

**W.P. No.11408 of 2005**

**ORDER:**

Heard Mrs.K.Hemalatha, counsel for petitioners, the learned Assistant Government Pleader for Revenue and Mr.Suresh, counsel for respondent Nos.4 to 6.

The petitioners pray for mandamus declaring the proceedings dated 29.04.2005 in File No.F1/90/2005, as illegal, arbitrary and unconstitutional.

The petitioners pray for consequential direction restraining the respondents from disturbing the possession of petitioners of agricultural land in an extent of Ac.1-09 gts and Ac.1-13 gts in Sy.Nos.391 & 392 of Malreddipally, H/o Kosgi Village & Mandal, Mahbubnagar District.

The 1<sup>st</sup> respondent through proceedings No.F1/90/2005 dated 29.04.2005, considered the request of respondent Nos.4 to 6 and ordered as follows:

"No.F1/90/2005

Dated:29.04.2005

**PROCEEDINGS**

PRESENT:-SRI G.S.PRASAD RAO, I.A.S.,  
JOINT COLLECTOR &ADDL.DIST.MAGISTRATE  
MAHBUBNAGAR.

Sub: TENANCY-Mahbubnagar Dist.-Kosgi Mandal-  
Malreddipally, H/o Kosgi-Files Restitution  
Petition U/s/144 of C.P.C, Lands in Sy.Nos.391 &  
392 of Malreddipally village – Orders Passed by  
the Hon'ble High Court, A.P.Hyderabad in CRP

No.3574 of 1998-certain instructions issued –  
Reg.

Ref:-1.M.R.O.Kosgi Orders dated 25-5-1996 in file  
No.A/2098/91.

2. Joint Collector, M'Nagar Orders dated:15-11-  
1997 in case No.B7/7/1996.

3. Hon'ble High Court, A.P. Hyderabad Orders  
dated 19-4-2004 in CRP No.3574/98.

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ORDER:

Aggrieved by the Orders Passed by the Joint Collector, Mahabubnagar in case No.B7/7/1996 the L.Rs. of K.Laxman Sharma have filed Civil Revision Petition before the Hon'ble High Court, A.P. Hyderabad. The Hon'ble Court was allowed the Petition partly by an Order dated:19-4-2004.

1)As per directions of the Hon'ble High Court, A.P. Hyderabad the matter which was remanded earlier to the M.R.O. Kosgi to for denovo enquiry is now remanded to the Revenue Divisional Officer, Narayanpet to conduct enquiry U/s.37-A of Tenancy Act on the Orders Passed by the Mandal Revenue Officer, Kosgi in file No.A/2098/91.

2) Since the Orders Passed by the Mandal Revenue Officer, Kosgi on 25-5-1996 in file No.A/2098/91 was set aside by the Joint Collector, Mahabubnagar in case No.B7/7/1996, the possession of the lands bearing Sy.Nos.391 & 392 admeasuring Acres.1-09 gts and Acres 1-13 gts. Respectively relates to Malreddipally H/o Kosgi Village & Mandal should be handed over to the Petitioners i.e., L.Rs. of Sri K.Laxmana Sharma and others by evicting the Respondents Sri K.Chinna Balappa and others.

3) The Mandal Revenue Officer, Kosgi is directed to take action to put back the possession of the said lands to the Appellants and to sen his office file bearing No.A/2098/91 to the Revenue Divisional Officer, Narayanpet immediately.

The Revenue Divisional Officer, Narayanpet is requested to conduct enquiry and submit report as early as possible.

JOINT COLLECTOR,  
MAHABUBNAGAR.

Copy to the Mandal Revenue Officer, Kosgi for immediate necessary action.

Copy to the Revenue Divisional Officer, Narayanpet for information and necessary action.

Copy to Sri K.Prathap Kumar, Advocate, Mahbubnagar Counsel for the Petitioner for information.”

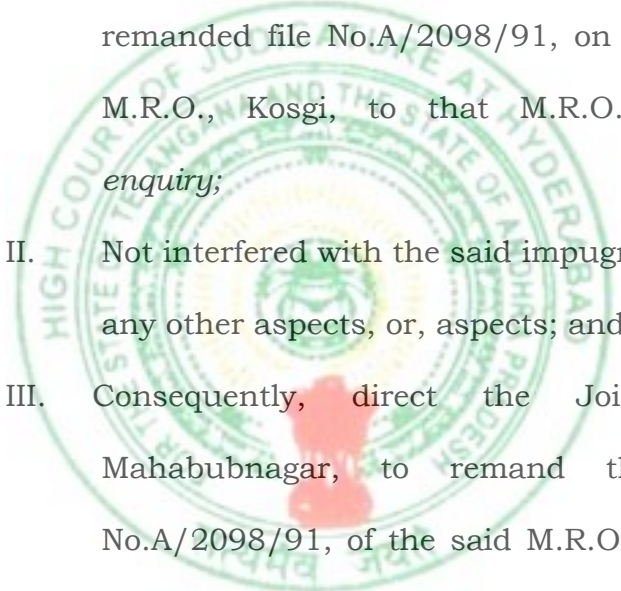
The petitioners whose possession is sought to be disturbed through proceedings impugned in the writ petition challenge the said proceedings, as illegal and without jurisdiction.

At the outset, it appears the possession of petitioners is disturbed through impugned proceedings without affording opportunity or adjudicating the rights between the parties. To appreciate the grounds urged in the writ petition, the following circumstances are adverted to.

Chinna Balappa, son of Gajalappa/1<sup>st</sup> petitioner herein along with a few other petitioners applied for declaration of the applicants before the 3<sup>rd</sup> respondent as protected tenants and the request made by petitioners was taken on record in File No.A/2098/91.

On 22.05.1996, the 3<sup>rd</sup> respondent accepted the prayer to treat the petitioners before him as protected tenants. On 07.06.1996, in obedience to 22.05.1996, the possession of subject matter of writ petition, under a Panchanama was delivered in favour of petitioners herein. The respondents 4 to 6 filed appeal under section 90 (1) of A.P (T.A.) Tenancy and Agricultural Lands Act, 1950

before the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent vide order dated 15.11.1997 allowed the appeal filed by respondents 4 to 6 herein and remanded the matter to Mandal Revenue Officer. The respondents 4 to 6 challenge the order of 1<sup>st</sup> respondent dated 15.11.1997 in CRP.No.3574 of 1998 in this Court. On 19.04.2004, the CRP was adjudicated as follows:

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- “I. Setting aside the impugned order, set forth in para 2, supra, but, only, insofar as the same remanded file No.A/2098/91, on the file of the M.R.O., Kosgi, to that M.R.O., for *denovo enquiry*;
- II. Not interfered with the said impugned Orders, on any other aspects, or, aspects; and
- III. Consequently, direct the Joint Collector, Mahabubnagar, to remand the said file No.A/2098/91, of the said M.R.O., Kosgi, Kosgi Mandal, to the correct, competent, statutory, authority, as observed by the High Court in the present Orders.”

The respondents 4 to 6, in view of the confirmation to other findings, applied before 1<sup>st</sup> respondent for restitution as consequence to the order dated 15.11.1997.

The counsel for petitioners contends that the enquiry is still pending before the Revenue Divisional Officer, restitution cannot and could not be directed by 1<sup>st</sup> respondent, at any rate the impugned proceeding is illegal, untenable in law and fact.

Mr.Suresh, counsel for respondents 4 to 6 contends that the petitioners claim legitimacy to their possession by referring to order dated 22.05.1996 and panchanama dated 07.06.1996. Once the order dated 22.05.1996 is set aside, they are not entitled to continue to enjoy the property, more particularly, when the order of 1<sup>st</sup> respondent dated 15.11.1997 to the extent of other findings, recorded by 3<sup>rd</sup> respondent in his order dated 22.05.1996 were set aside.

According to him, the proceeding, now issued is a mere case of restitution to maintain parity between the parties and this Court cannot undertake or adjudicate any dispute between the parties for they are seized before the revenue authorities.

The Assistant Government Pleader for Revenue submits that the petitioners herein have got possession through the order passed by 3<sup>rd</sup> respondent. Once the

order of 3<sup>rd</sup> respondent dated 22.05.1996 is set aside, the petitioners herein are required to restore possession to respondents 4 to 6 and through proceedings impugned in the writ petition, such course has been adopted.

I have heard the counsel and perused the record.

As already noted, the 1<sup>st</sup> respondent's submission to petitioners is that the possession is directed to be restored without affording opportunity to petitioners, much less, adjudicating the rights or disputes between petitioners on one hand and respondents 4 to 6 on the other hand.

The contention at the 1<sup>st</sup> blush warrants consideration. Hence, the record has been called for. The record from the office of the 1<sup>st</sup> respondent is produced. The 1<sup>st</sup> respondent through the impugned proceedings is for all purposes ordering restitution of benefit derived by petitioners through the order of 3<sup>rd</sup> respondent. If the order of 3<sup>rd</sup> respondent remained intact, the petitioners are entitled to retain possession. On the other hand, if the order is reversed, the petitioners are required to restore the petition derived from such an order.

In view of the orders passed by the authorities as well as this court, I am of the view that the restitution, now ordered by 1<sup>st</sup> respondent is to restore *status quo* anti prior to the filing of petition by petitioners for recognition of their rights.

I do not see reason to interfere with the proceedings impugned in the writ petition.

Writ petition dismissed accordingly. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 14.02.2018  
dv

**S. V. BHATT, J**



