

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.226 of 2016

ORDER :

This writ petition is filed by the petitioner seeking *Mandamus* declaring inaction on the part of respondent Nos.3, 4 and 5 in initiating appropriate action against respondent No.6 in pursuance of the petitioner's complaints dated 05.10.2015, 08.10.2015, petitioner agent's complaint dated 22.12.2015, inspite of specific directions of the 2nd respondent vide proceedings No.G/5423/2015, dated 15.10.2015, to examine the petitioner's complaint, as arbitrary and illegal, and consequently, sought a direction to the respondents to forthwith initiate appropriate action against respondent No.6 in pursuance of the aforesaid complaints and restrain him from interfering with the business affairs of the petitioner.

The case of the petitioner, as unfolded in the affidavit filed by him, is that, he is the Proprietor of M/s. Shiridi Sai Cable Network, Peddapalli Village, having engaged in the said business after obtaining the required affiliation from Noida Software Technology Park Limited. As per the agreement entered into between the parties, the petitioner was authorized to provide Cable TV services to the subscribers by means of Digital Cable TV Network. However,

respondent No.6 without any right or authority has been repeatedly interfering with the business affairs of the petitioner while erecting the cable wires. Therefore, the petitioner has lodged a complaint before the police on 05.10.2015, however, as the respondent – police authorities have not taken any action and 6th respondent and his henchmen are interfering again and again, the petitioner has lodged second complaint on 08.10.2015. As the respondent - police did not take any action and when 6th respondent again interfered with the petitioner's business activities, the petitioner has lodged third complaint through his agent on 22.12.2015 against the 6th respondent and his henchmen in interfering with the Cable wiring work, abusing in filthy language, damaging the wires and threatening the petitioner with dire consequences. However, the police did not take any action against respondent No.6 and his henchmen. The petitioner has also filed a suit in O.S.No.114 of 2015 on the file of Junior Civil Judge, Peddapalli, seeking perpetual injunction restraining respondent No.6, his agents and workmen from interfering in the business affairs of the petitioner. He also filed I.A.No.415 of 2015 in O.S.No.114 of 2015 seeking temporary injunction and the same was allowed by the Court below, vide order dated 23.12.2015. In spite of the same, as the police failed to take any action on the above complaints, the petitioner has filed the present writ petition for the aforesaid relief.

Heard learned counsel for the petitioner as well as the learned Assistant Government Pleader for Home and perused the material on record.

While reiterating the aforesaid facts stated by the petitioner in the affidavit, learned counsel for the petitioner sought a direction to the respondent – police authorities to initiate appropriate action against respondent No.6 and his henchmen basing on the aforesaid complaints lodged by the petitioner and to provide protection to the petitioner.

Learned Assistant Government Pleader for Home submits that the complaints lodged by the petitioner before the respondent – police do not contain any ingredients to attract the cognizable offence and, therefore, the police have not taken cognizance of the said complaints. On the other hand, on receipt of the complaint dated 05.10.2015, the police concerned have made an endorsement stating that “whenever the petitioner is giving cable wire connection and if there is any obstruction, they can seek for police protection”.

It is also pertinent to note that the petitioner could not get any relief by lodging complaints before the police. However, he has filed a suit against respondent No.6 seeking perpetual injunction and the Court below also granted temporary injunction restraining respondent No.6 and his servants from interfering with the business affairs of the

petitioner. Non-registration of complaint of the petitioner by the respondent – police authorities to protect the fundamental rights of the petitioner is nothing but arbitrary and cannot be sustained. The petitioner has categorically stated in his complaints that respondent No.6 is interfering with his business affairs and on three occasions he lodged complaints before the respondent – police authorities. However, instead of registering the said complaints, the police authorities made an endorsement stating that whenever respondent No.6 interferes with the business affairs of the petitioner, he may seek police protection. From the above, it is obvious that respondent No.5 – SHO, Peddapalli Police Station, failed to register the complaints lodged by the petitioner and provide necessary protection. Therefore, the petitioner is entitled for the relief of Mandamus directing respondent No.5 to register the said complaints immediately and initiate action against the erring individuals.

In the result, this writ petition is allowed directing respondent No.5 to register the complaints dated 05.10.2015, 08.10.2015 and 22.12.2015 filed by the petitioner, forthwith, investigate into the matter and initiate appropriate action against the erring individuals. No order as to costs.

As a sequel, miscellaneous petitions pending, if any,
shall stand closed.

GUDISEVA SHYAM PRASAD, J

17.04.2018.
Msr



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