

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.17340 of 2017

ORDER:

Heard Mr.Mahadeva Kanthrigala for petitioner and the learned Assistant Government Pleader for Revenue.

The petitioner prays for the following relief :-

“.....to issue a writ of Mandamus declaring the action of the respondent Nos.2 and 3 in interfering with the petitioner's possession of land to an extent of Ac.2.00 cents in SNo 465 of Mothumala Village Kothapatnam Mandal, Prakasam District, as illegal, improper, unjust, arbitrary and violative of principles of natural justice and Article 300-A of the Constitution of India and consequently declare that the petitioner is entitled to be continued in possession of the above said land.....”

The petitioner relying on Sale Deed dated 14.11.2005 said to have been executed by one Purini Seedeve claims right, title, possession and enjoyment of an extent of Ac.2-00 cents in Sy.No.468 of Mothumala Village, Kothapatnam Mandal, Prakasam District.

Mr.Mahadeva relying on the registered Sale Deed vehemently contends that the petitioner's title, possession and enjoyment are through a registered Sale Deed and there is apprehension of dispossession of petitioner by respondents, particularly 3rd respondent. The 3rd respondent, if allowed to dispossess the petitioner from petition land, the same amounts to violation of Article 300-A of the Constitution of India. Hence, the writ petition.

The Assistant Government Pleader (Revenue) contends that the petitioner at the first instance filed the writ petition by showing survey number as 468. Sy.No.468 is private patta land and the 3rd respondent never interfered with the possession of the petitioner. As regards Sy.No.465 is concerned, he contends that merely because a registered Sale Deed is brought into existence by petitioner and Purini Seedeve, they do not become owners of the property and claim to be in possession of the property covered by the Sale Deed and seek protection from this Court under Article 226 of the Constitution of India. He further contends that the petitioner ought to first establish the antecedent right, title together with enjoyment of petition survey number either by petitioner's vendor or vendor's vendor. There is no record in any manner evidencing enjoyment of Sy.No.465 by petitioner or its vendor. This Court, if entertains the writ petition, he contends that the same would be amounting to this Court considering the title of petitioner, possession and enjoyment of petitioner, such course as far as possible ought to be avoided.

The respective submissions are taken note and I have perused the record.

The contentions raised by the Assistant Government Pleader are covering all the objections on the maintainability of writ petition. No documents in proof of right, title and possession claimed by petitioner are filed even for seeking limited protection, which Mr.Mahadeva tried to get from this Court.

The Writ of Mandamus is not a writ of right and in the given facts and circumstances, this Court is not persuaded to admit the writ petition.

The writ petition fails and is accordingly dismissed. However, the dismissal shall not be understood as this Court barring a remedy available to petitioner in law before competent court.

Miscellaneous petitions, if any, pending, shall stand closed.
No order as to costs.

S. V. BHATT, J

Date:01-05-2018

Prv



