

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.17894 of 2013

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents 1 and 2.

The prayer of the writ petition is as under:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Court may be pleased to issue a writ, order or direction more particularly in the nature of writ of mandamus declaring the action of the 1st respondent in not giving any protection for the implementation of the orders of the competent Civil Court by initiating action against the 3rd respondent even in spite of making representation on 13.6.2013 as being illegal arbitrary and is in violation of principles of promissory estoppel besides in negation of Article 21 of the Constitution of India with a direction to the respondents 1 and 2 to give protection to the petitioner for protecting his property situated in Sy.No. 240 of Mudumalagurthi village, Kodumuru Mandal, Kumool District to an extent of Ac.02.28 cents and to pass other orders or order as this Hon'ble Court may deem fit and proper in the interest of justice.”

The main case of the writ petitioner is that he is the absolute owner and possessor of the land admeasuring Ac.02.28 cents in Sy.No.240 situated at Mudumalagurthi village, Kodumuru Mandal, Kumool District having purchased the same in a court auction. However, on 13.06.2013 the third respondent along with his men and some anti social elements forcibly dispossessed the petitioner and took the possession of the subject property. Immediately, when the petitioner lodged a complaint with the first respondent, he refused to receive the complaint. Therefore, he was constrained to send the notice by registered post acknowledgement due to

respondents 1 and 2. Even for the said representation, there was no action. Under these circumstances, the present writ petition is filed.

The learned Government Pleader appearing for the respondents would submit that the writ petition as filed is not maintainable, since the remedy for the petitioner is by way of filing a civil suit for recovery of possession.

Having heard both the learned counsel and from the perusal of the material on record, it is revealed that the petitioner is seeking police protection to get back into the possession of the property purchased by him and for that purpose, the petitioner is seeking police protection. In the affidavit filed in support of the writ petition, the petitioner categorically stated that he was forcibly dispossessed by the third respondent and he took over possession of the subject property on 13.06.2013 itself. In such circumstances, the remedy available to the petitioner is by way of filing an appropriate suit before the competent civil Court seeking recovery of possession of the property. This Court while exercising jurisdiction under Article 226 of the Constitution of India cannot go into the disputed questions of fact between the petitioner and the third respondent. Be that as it may, when the petitioner, is not supported by any decree from the competent civil Court, the question of giving police protection may not arise.

Under these circumstances, this Court is of the opinion that there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, shall also stand closed.

P. KESHAVA RAO, J

Date: 27.11.2018
ccm



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