

HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No. 382 OF 2016.

O R D E R :

The petitioner has filed a writ of mandamus to declare the auction of the respondents 4 and 5; Inspector of Police and Sub-Inspector of Police, Kurnool respectively in calling the petitioners to the Police Station and threatening to vacate and hand over the possession of the land in survey No. 157/1, 2 and 3 situated at Ambedkar Nagar, Kurnool to the un-official respondents 6, 7, 8 and 9 as illegal, arbitrary, un-constitutional and violative of Article 21 of the Constitution of India. The petitioners have also sought a direction to the respondents 2 and 3; Superintendent of Police, Kurnool district and Deputy Superintendent of Police, Kurnool to take action against respondents 4 and 5 for their illegal interference in the possession and enjoyment of the schedule property.

2. The brief facts of the case are that the petitioners have filed the present writ petition questioning the action of the respondents 4 and 5 in calling the petitioners herein to the Police Station and threatening to vacate and handover the possession of the land in survey No. 157/1, 2 and 3 situated at Ambedkar Nagar, Kurnool to the un-official respondents, without any authority or jurisdiction. It is stated in the affidavit filed by the first petitioner that the petitioners belongs to scheduled castes, schedule tribes, backward classes and minority community and they have occupied small extents along with two hundred landless poor to an extent of Ac:0-01 ½ cents of Government land in survey Nos. 142, 156, 157 and 162 situated at Ambedkar Nagar, Kurnool district about ten years back. Later they have erected small huts in their respective land and residing along with their families. The petitioners have been representing before the officials for issuance of house-site pattas in respect of their lands but the Revenue officials have been dodging the matter on one pretext or the other. On the persuasion of the petitioners, the

Revenue officials have issued house-site to some of the beneficiaries in the year 2004 with an assurance to consider the case of the petitioners and others in the second phase. The Revenue officials instead of considering the case of the petitioners have made attempts to dispossess them from their house sites, and therefore, the petitioners and others have filed W.P.No.2296 of 2013, which is pending for adjudication.

3. The un-official respondents, who are highly influenced persons have fabricated the documents in survey No.157/1, 2 and 3 and basing on the fictitious documents, they came to the locality of the petitioners on 06/11/2015 and threatened them to vacate and handover possession of land in survey Nos. 157/1, 2 and 3 to them; other wise, they would dispossess them. The un-official respondents have influenced the respondents 4 and 5, who in turn got registered a case in Crime No.361/2015 for the offences under section 447, 506 read with section 34 of I.P.C., against the petitioners that they have trespassed into the land in survey Nos.157/1, 2 and 3. It is the case of the petitioners that they have been in possession and enjoyment of the house-sites in survey Nos. 157/1, 2 and 3 for the past ten years and they have evidence to show that they have paid electricity bills, voter identity cards, household cards etc. Therefore, it is the case of the petitioners that the ingredients of section 447 and 506 of I.P.C. do not attract to the facts of the case. It is the further case of the petitioners that apprehending dispossession from their house sites, the petitioners have lodged a written complaint before the respondents 2 and 3 on 21/12/2015 bringing them about the illegal acts of respondents 4 and 5 in causing interference in civil disputes. The respondents 4 and 5 are the Inspector of Police and Sub-Inspector of Police, III-Town Police Station, Kurnool, Kurnool district.

4. The second respondent, who is the Superintendent of Police, Kurnool district, vide his endorsement, directed the third respondent; Deputy Superintendent of Police, Kurnool to enquire and take necessary action. The respondents 4 and 5 having come to know about the complaint given by the petitioners came to the

locality on 02/01/2016 and threatened the petitioners with dire consequences. Therefore, the petitioners have filed the present writ petition seeking a direction to the respondents 4 and 5 not to call the petitioners to the III-Town Police Station or in any manner to interfere with their personal life and liberty including their house sites in survey No.157/1, 2 and 3 situated at Ambedkar Nagar, Kurnool, Kurnool district.

5. The learned counsel for the petitioner is not present, however, the case of the petitioners as reflected in the affidavit is extracted hereinabove.

6. The learned counsel for the un-official respondents 6 to 9 submits that they have filed a counter-affidavit. The respondents 5, Sub-Inspector of Police, III-Town Police Station, Kurnool filed counter-affidavit stating that the petitioners herein submitted representation to the respondents 2 and 3 against respondents 4 and 5 with regard to the interference in the property of the petitioners herein and the respondents 4 and 5 having come to know about the same and threatened with dire consequences to dispossess the petitioners is denied as false.

7. The learned counsel appearing for the un-official respondents 6 to 9 submits that they have filed their counter stating that they have purchased the schedule property and they are the absolute owners and that the petitioners are no-way concerned with the schedule land.

8. The respondent No.8 has filed his counter stating in para No.4 of the counter that the land in survey No.157 was divided as 157/1, 157/2, 157k/3, 157/4 and 157/5 totally admeasuring Ac: 11-25 cents and out of it they have purchased an extent of Ac:5-68 cents by way of registered sale deed. In Para No.5 of the counter, it is stated that the Government has acquired the land to an extent of Acs:5-57 cents in survey No.157/4 and 157/5 for the purpose of granting house-sites to “beedi workers”. The Government after acquisition allotted the land to various “beedi workers”, and they are residing in their respective plots by erecting houses on the southern side of their land. It is further stated that as their land is open site, many

people are having an eye to grab their land to make un-lawful gain. It is further stated that earlier one Smt. Patnam Rajeswari claiming herself as “Convenor” of SC/ST/BC and Minority Aikya Vedika, Kurnool [which is a wing of Political Organization] along with Sri K.Janakiram and her supporters tried to interfere with the peaceful possession and enjoyment of their land. Therefore, they have filed the suit in O.S.No. 70 of 2011 on the file of the Court of Principal Senior Civil Judge, Kurnool, against the above persons for permanent injunction and the same was decreed on 05/11/2013 granting permanent injunction against them and the injunction is in force by the date of filing the counter-affidavit. It is further stated that the first petitioner in WP.No. 382 of 2016 along with five others; namely, (1) Chooru Basha, (2) Shahim, (3) Rajeswari, (4) Sathemma and (5) Ramija Bi, who are residing in survey No. 157/1, 2 and 3 of Joharapuram village trespassed into their property by threatening them and erected their house in spite of their objection and protest. It is further stated that they have no right, title and possession over the said property and that they have lodged a complaint before the Judicial Magistrate of First Class, Kurnool against those persons and it was registered as Crime No.361 of 2015, dated 14/12/2015 for the offences punishable under section 447, 506 read with section 34 of I.P.C., and the investigation was in progress. It is further stated that the Managing Committee of “Darga Hazarath Been Shah Dada” are claiming the subject land as “darga land” filed O.S.No. 101 of 2006 on the file of A.P. Wakf Tribunal against (1) Mr.P. Khasim, (2) Mr.Khadar Hussain, (3) Mr.Abdul Subhan, (4) A.P. State Wakf Board and the said suit was dismissed for default vide judgment dated 04/12/2009. It is further stated that the claim of the writ petitioners that the subject land in survey No.157 of Joharapuram village is neither a “wakf property” nor “Government property”, as alleged.

9. The allegations in the counter filed by the respondent No.8 shows that there are disputes with regard to the land in survey No.157/1, 2 and 3 between the

petitioners and un-official respondents and there are civil proceedings went on between the parties.

10. The learned Assistant Government Pleader for Home [AP] submits that the writ petition is misconceived and police have never interfered in the civil matters between the parties, as they have already approached the civil court and agitating their rights before the competent civil courts; and therefore, sought for dismissal of this writ petition.

11. On consideration of the arguments of the learned counsel for the petitioners, learned Assistant Government Pleader for Home for the respondents 1 to 5 and Sri Harija Akkineni, learned counsel for the respondents 6 to 9, it is obvious that there is a civil dispute with regard to the land in survey No. 157/1, 2 and 3 at Ambedkar Nagar, Kurnool between the petitioners and un-official respondents and some others and revenue proceedings are taking place in respect of land in survey No.157 and the parties have approached the civil court agitating their rights. The apprehension of the petitioners is that the police are interfering in the civil matters and trying to dispossess them from the aforesaid property. The Police have never interfered or tried to dispossess them from their respective house sites. Recording the submissions made by the learned Assistant Government Pleader for Home, the respondents 4 and 5 are directed not to interfere in civil matters and the civil litigation is going on between the parties and they may proceed on criminal side and investigate matter before them. The un-official respondents 6 to 9 may agitate their rights over the schedule property in competent civil court, as they have already obtained a decree in the above suit.

12. With the above direction, this writ petition is disposed of. No costs.

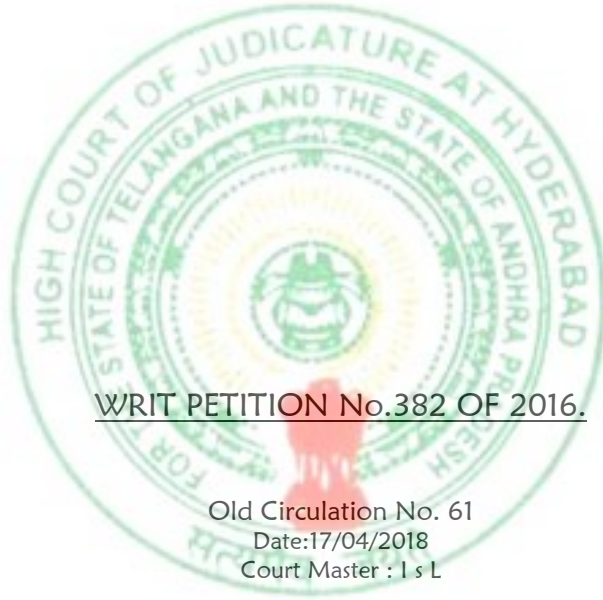
13. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

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*JUSTICE GUDISEVA SHYAM PRASAD.*

17/04/2018

HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD



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Court Master : I s L