

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Writ Petition No.6819 of 2012

ORDER:

The writ petitioner seeks a Writ of Mandamus declaring the action of the respondents in interfering with the petitioner's possession and enjoyment of the property admeasuring Ac.2-84cts in Sy.No.293/1, Yanamadala Village, Prathipadu Mandal, Guntur District, which is the subject matter of the civil dispute in O.S.No.319/2002 on the file of Principal Senior Civil Judge, Guntur and inspite of the orders of the High Court dated 10.11.2011 in S.A.No.1300/2010 declaring the petitioner's right in the said land, as arbitrary and illegal and to pass consequential orders, which the Court deems it fit and proper.

2) The petitioner's case in brief is that he purchased land measuring Ac.2-84 cts from one Parchala Appa Rao under a registered sale deed dated 06.06.2002 vide document No.955/2002 for a valid consideration and ever since he has been in possession and enjoyment of the same. While-so, one Parchala Rama Rao, who is the son of the petitioner's vendor filed O.S.No.319/2002 on the file of Principal Senior Civil Judge, Guntur, seeking partition of various properties against his father including the land purchased by the petitioner. The petitioner was impleaded in the said suit as 2nd defendant. The Trial Court dismissed the suit against the petitioner insofar as the property purchased by him is concerned. Aggrieved, the plaintiff in that suit filed A.S.No.473/2009 on the file of Additional District Judge-cum-Family Court, Guntur and the

lower Appellate Court allowed the said appeal decreeing the suit including the property purchased by the petitioner. Aggrieved, the writ petitioner filed S.A.No.1300/2010 before the High Court and the same was allowed and matter was remanded to the Trial Court for fresh disposal. While disposing the Second Appeal, the High Court held that pending disposal of the suit, the writ petitioner shall be entitled to be in possession of Item No.2 of the suit schedule property subject to the condition that in case Item No.2 was held to be part of the joint family property, the plaintiff and other coparceners shall be entitled for mesne profits. Thus the petitioner has been in possession and enjoyment of the suit property. While-so, the 2nd respondent, who was working as Sub-Inspector of Police in Prathipadu PS at the relevant time registered Crime No.59/2011 against the petitioner alleging that he trespassed into the said land and arrested him even after producing the copy of the order in the Second Appeal. The 2nd respondent proceeded with the investigation and filed charge sheet for the alleged offence. While-so, the 1st respondent came to the land on 06.03.2012 and took away one Maliboina Krishna, who was working in the field of the petitioner and assisting him in agricultural operations. When the petitioner approached the Police Station for release of his worker, the 2nd respondent directed him to give an undertaking that he would not cultivate the said land until further directions. The action of the respondents in interfering with the civil disputes between the petitioner and 3rd respondent in respect of the land measuring Ac.2-84 cents in S.No.293/1 is illegal and without

jurisdiction. They have no authority to interfere with the possession of the petitioner in respect of the said land.

Hence the writ petition.

3) The respondents 1 and 2 filed counter, wherein it is stated that the 1st respondent had never interfered with the petitioner's possession and enjoyment of the property admeasuring Ac.2-84 cts in Survey No.293/1 of Yanamadala Village, Prathipadu Mandal. It further stated that the 3rd respondent's son by name T.S.Vijay, lodged a complaint with the S.H.O, Prathipadu P.S alleging that on 12.09.2011, the writ petitioner had trespassed into his cotton fields along with tractor and ran over the tractor on the cotton crop and caused damage to the crop and sought for action. Pursuant to which, the 1st respondent registered a case in Crime No.59/11 for the offences under Sections 447 and 427 IPC on 28.09.2011 against the writ petitioner and after investigation filed charge sheet against him before the VI Additional Civil Judge, Guntur and the same was taken cognizance and registered as C.C.No.446/2011, which is pending for trial. Except that, the 1st respondent has not interfered with the civil disputes between the parties. The allegation of the petitioner that respondent had come to the land of the petitioner on 06.03.2012 and took away one Mr. Krishna, who was the worker of the petitioner is baseless. The 1st respondent reiterated that he never interfered with the civil disputes between the petitioner and 3rd respondent.

4) When the matter came up for hearing today, there is no representation for petitioner. Hence, heard learned Government Pleader for Home representing respondents 1 and 2 and perused the counter averments.

5) As can be seen, it is the case of the petitioner that in Second Appeal the High Court directed that the petitioner shall be in possession of land admeasuring Ac.2-84cts in Sy.No.293/1 till disposal of the suit—O.S.No.319/2002 and subject to the result of the suit, he has to pay the mesne profits if the plaintiff be continued in possession of the suit till disposal of suit. His further case is that inspite of the order under which he is continuing in possession, respondents 1 and 2 interfered with his possession and threatened him and booked a case against him. Whereas the counter averments are to the effect that on the complaint given by the son of 3rd respondent to the effect that the petitioner trespassed into his cotton fields along with tractor and ran over the tractor on the cotton fields and caused damage to the crop, they registered a case in Crime No.59/2011 and after investigation filed charge sheet and C.C.No.446/2011 is pending before the VI Additional Civil Judge's Court, Guntur. Their further submission is that except in respect of the said case, they did not interfere with the civil disputes said to be pending between the petitioner and the 3rd respondent. In that view, the petitioner has to vindicate his defence stand and his alleged legal possession over the said land in C.C.No.446/2011.

6) Recording the submission of respondents 1 and 2 that they have not interfered with the civil disputes between the petitioner and 3rd respondent, this Writ Petition is closed. No costs.

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

U. DURGA PRASAD RAO, J

Date: 31.08.2018
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