

THE HON'BLE JUSTICE SRI GUDISEVA SHYAM PRASAD

WRIT PETITION No. 1652 of 2016

ORDER :

This Petition is filed for Writ of Mandamus to declare the action of the respondent No.4 in calling the petitioner to the Police Station, and interfering with the civil disputes of the petitioner with unofficial respondents, as illegal and contrary to law.

2. The allegation of the petitioner is that the respondent Nos.5 and 6 are calling the petitioner and detaining him in Police Station, Bibinagar, Nalgonda District.

3. The brief facts of the case are that the 5th respondent executed an agreement of sale dated 23.06.2012, in favour of the petitioner, in respect of sale of land admeasuring Ac.4.28 guntas in Survey Nos.547, 548, 557, 558, situated at Kondamadugu village, Bibinagar Mandal, Nalgonda District. He was having a land of Ac.1.16 guntas in his name at the time of execution of agreement of sale dated 29.10.2009 which was a prior agreement. He was unable to sell an extent of Ac.4.6 guntas as per the agreement of sale entered into for an extent of Ac.4.28 guntas. Consequently, the same sale price was reduced to Rs.2,44,59,000/- from Rs.2,77,00,000/-. He has registered plots in favour of the 3rd parties by receiving Rs.81,00,000/- as against total sale consideration of Rs.2,44,59,000/- and that he was liable to pay the balance amount of Rs.1,63,59,000 on registration of plots, admeasuring 12000 sq. yards, in favour of the petitioner. General Power of Attorney bearing No.

7131/2013 dated 12.12.2013 was executed in favour of the 6th respondent, in respect of the land to an extent of 3 acrs 600 square yards for a consideration of Rs.21,60,000/-. The understanding between the 6th respondent and 5th respondent in respect of the transaction of the said land was by undated letter of undertaking, mentioning the cheque numbers, drawn on H.D.F.C. Bank, Bhongir Branch, pertaining to the 6th respondent. The cheques were put up by 5th respondent for encashment of the amount in his account, at State Bank of India, Bhongir Branch, and the said branch returned two cheques for an amount of Rs.25,00,000/-, stating that they are not original cheques. The Bank lodged a complaint on 03.12.2014, against the 5th and 6th respondents, under Section 420, 428 471 IPC in Bibinagar Police Station.

4. It is the contention of the petitioner that the petitioner is no way concerned with the transaction undertaken between the 5th and 6th respondents and the transactions are of civil in nature. It is alleged that the 4th respondent- Station House Officer, Police Station, Bibinagar has registered a FIR No. 106 of 2015 dated 04.08.2015, arraying the petitioner as accused No.4 and frequently calling him for settlement of the issue with 5th respondent, relating to the complainants in FIR No. 106/2015, and A1 in respect of the FIR No.203/2014.

5. The 3rd and 4th respondent - Deputy Superintendent of Police and Station House Officer of Bhongir and Bibinagar respectively, called the petitioner on 09.12.2015 at 9 a.m., and

made him to sit in the Police Station up to 8 p.m. in the presence of A-1, in connection with the FIR No.203 of 2014.

6. Heard the arguments of the learned counsel for the petitioner and learned Government Pleader (Home).

7. The 5th respondent has filed a private complaint in FIR 106 of 2015 dated 04.08.2015, arraying the petitioner as accused No.4 on the file of Judicial I Class Magistrate. It is the case of the petitioner that he is not connected with any civil disputes with respondent No. 5 and 6.

8. The Assistant Government Pleader contends that the respondent No.4-Station House Officer has called the petitioner to the police station only in connection with the crime registered in FIR No.106 of 2015, and he had not negotiated any matter, in respect of the civil disputes between the parties.

Conclusion:-

9. There are civil disputes between the parties. FIR No.106 of 2015 is pending against the petitioner/accused No.4. The police state that they called the petitioner in respect of investigation in FIR No. 106 of 2015.

10. It is pertinent to note that in the light of the recent judgment delivered by this Court in **Darapaneni Krishna Murthy Vs. Superintendent of Police** [W.P.No.1871 of 2008 and W.P.M.P. No. 2354 of 2008 dated 03.03.2008], the Police concerned are directed not to interfere in civil matters of the parties. By following the guidelines, the police may investigate

the matters. The operative portion of the above said judgment reads as follows:

“ The grievance of the petitioner is that when the suit and the I.A. filed therein were pending, respondent Nos.2 and 3 took him to old Guntur Police Station and fixed the deadline to evict the plaintiff schedule property on 10.02.2007 by threatening that if he failed to do so, he will be implicated in the false criminal case.

Though time for filing counter affidavit was given by this Court on many occasions, the respondents have not filed any counter affidavit controverting the allegations contained in the affidavit.

At the hearing, learned Assistant Government Pleader for Home, on instructions says that the respondents have not been interfering with the petitioner's personal liberty or the property dispute between him and the landlord.

In a society governed by rule of law, the State or its subordinates cannot be permitted to act in a manner, which would violate the constitutional or legal rights of its subjects. If the allegations contained in the affidavit are true, the action of the respondents is in flagrant violation of the life and liberty of the petitioner guaranteed by Article 21 of the Constitution of India. It is no part of the duty of the respondents to interfere with the civil disputes between two private parties unless the Court of competent jurisdiction directs granting of aid to comply with the orders of the Court.

In this view of the matter and in the light of the statement made by the learned Assistant Government Pleader that the respondents are not interfering with the personal liberty and the property dispute between the petitioner and the landlord, the writ petition is disposed of. Liberty is given to the petitioner to approach this Court, if the respondents violate their undertaking recorded by this Court supra.”

11. With these observations, the Writ Petition is disposed of accordingly.

12. As a sequel to disposal of the Writ Petition, Miscellaneous Petitions pending, if any, shall stand closed.

GUDISEVA SHYAM PRASAD,J

Dated: 25th April, 2018

JR

THE HON'BLE JUSTICE SRI GUDISEVA SHYAM PRASAD

WRIT PETITION No. 1652 of 2016



Dated: 25th April, 2018

JR*