

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WP.No.42637 of 2016

Date:03.08.2018

Between.

Sindhu Paraspara Sahayaka
Sahakara Podupu Sangam Ltd.,
Amarapuram, Anantapur District,
reptd by its President-E.Lakshmi
and four others.

.....Petitioners

And.

State Legal Services Authority,
A.P., reptd by its Member Secretary
and four others.

....Respondents

Counsel for the petitioners: Mr. O.Manohar Reddy

Counsel for respondent Nos.1, 3 & 4: GP for Revenue (AP)

Counsel for respondent No.2: Mr. J.Anil Kumar

Counsel for respondent No.5: None appeared

The Court made the following:

ORDER: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

This Writ Petition is filed for issue of *Mandamus* declaring the action of respondent No.3 in directing respondent No.4 to cancel the Possession Certificate, dated 18.12.2015, and the consequential order of respondent No.4, vide L.PRO.No.43/2016, dated 04.02.2016, as illegal and arbitrary.

We have heard Mr. O.Manohar Reddy, learned counsel for the petitioners, Mr. J.Anil Kumar, learned counsel for respondent Nos.1 and 2 and learned Government Pleader for Revenue (AP) appearing for respondent Nos.3 and 4. Despite service of notice, respondent No.5 has not entered appearance.

The petitioners are thrift societies of Amarapuram Village, Anantapuram District. On 18.12.2015, respondent No.4 issued the Possession Certificate in favour of the petitioners in respect of 0.07 cents (35x85 feet) in Survey No.671-2A of Amarapuram Village. It is stated therein that the petitioners are in possession of the said site for more than 12 years.

In the affidavit, filed in support of the Writ Petition, the petitioners stated that at the instance of the President of one of the societies, a small part of the site was permitted to be used for construction of a small temple; that thereafter, the temple Construction Committee started working against the interests of

the petitioners and approached respondent No.3 for redressal of their grievance; that at the instance of the said Committee, respondent No.3 has directed respondent No.4 to cancel the Possession Certificate, dated 18.12.2015; and that in compliance of the said direction, respondent No.4 has issued the impugned proceedings, vide L.PRO.No.43/2016, dated 04.02.2016, cancelling the said Possession Certificate.

On receiving notice, respondent No.4 has filed a counter-affidavit, wherein he has *inter alia* stated that on 30.01.2016, respondent No.3 has informed respondent No.4 that no thrift society has been functioning over the subject land; that only the temple of Sri Potuluri Veerabramhendra Swamy and space meant for procession alone are in existence; and that, he accordingly directed respondent No.4 to cancel the Possession Certificate, dated 18.12.2015, issued in favour of the petitioners. Respondent No.4 further stated that in pursuance of the said direction, the Possession Certificate, dated 18.12.2015, was cancelled after notice to the petitioners.

Mr. J.Anil Kumar, the learned Standing Counsel for Legal Services Authority, on written instructions, submitted that in his instructions, respondent No.3 has not referred to the instructions or directions allegedly issued by him to respondent No.4 on 30.01.2018.

In the un-numbered paragraph two of the impugned order, respondent No.4 has clearly stated that respondent No.3 has directed the former to cancel the Possession Certificate, dated 18.12.2015. He has reiterated this stand in the counter-affidavit filed by him. Hence, we see no reason not to accept the stand taken by respondent No.4 that he acted on the directions of respondent No.3 in cancelling the Possession Certificate.

Under the Legal Services Authorities Act, 1987 (for short 'the Act'), a Lok Adalat, in whatever name it may be called, has jurisdiction only to pass an Award based on either compromise or settlement and where no such compromise or settlement is arrived at by the parties to the dispute, it shall return the case to the Court if a reference was made in respect of a pending dispute.

The Lok Adalats constituted under the Act do not have adjudicatory or judicial functions, only with the exception of permanent Lok Adalats. This position in law is well crystallised by the Apex Court in *State of Punjab Vs. Jalour Singh*¹

A Division Bench of this Court speaking through one of us also held to the same effect in *Sai Vuma Chit Fund & Group of Companies Sufferers Welfare, Vijayawada Vs. State of Andhra Pradesh and Others*².

¹ (2008) 2 SCC 660

² 2017 (5) ALD 367

In the instant case, respondent No.3 has acted with patent illegality in unilaterally entertaining the grievance of a party without even insisting on presentation of such grievance in the form of a petition, and in orally directing respondent No.4 to cancel the Possession Certificate, dated 18.12.2015, granted in favour of the petitioners, thereby infringing their rights.

Respondent No.4 being a judicial officer is not expected to be oblivious of the limits of the powers consecrated in him under the Act. As the Chairperson of the Legal Services Committee, he cannot arrogate to himself the powers which are otherwise not vested in him and act in a whimsical manner by issuing oral directions to the detriment of the party concerned who was not even before him. Such a conduct on the part of respondent No.3 is highly abhorrent to say the least. The very purpose of constituting Legal Service Authorities to resolve disputes amicably, is rendered otiose if directions of the nature as impugned in the present case are issued as they proliferate litigation instead of settling the disputes between the parties.

Accordingly, we declare that the oral direction issued on 30.01.2016, by respondent No.3 to respondent No.4 to cancel the Possession Certificate, dated 18.12.2015, is without jurisdiction. As the proceedings, vide L.PRO.No.43/2016, dated

04.12.2016, of respondent No.4 were issued based on the oral directions of respondent No.3, the same is also liable to be set aside. Accordingly, the said proceedings is also set aside. In the result, the Writ Petition is allowed.

As a sequel to disposal of the Writ Petition, WPMP.No.52560 of 2016 filed for interim relief is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE GUDISEVA SHYAM PRASAD

03rd August, 2018

Note:

The Registry to mark copies of this order to the Member Secretary of the A.P. Legal Services Authority.

B/o

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