

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.8877 OF 2007

ORDER

This writ petition is filed for the following relief:

“...to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus, declaring highhanded action of the respondents 1 to 3 in interfering with the ownership, possession and enjoyment of Lord Sri Ramulu over the land admeasuring Ac.0.70 cents situated in Sitaramapuram Village, H/o Korangi, Tallarevu Mandal, Kakinada Sub-Registry limits, East Godavari District, without following due process of law contemplated under the Land Acquisition Act, inaction of the 4th respondent to receive complaint and take action against culprits, as arbitrary, illegal, colourable exercise of power, violative of Articles 19, 25, 26 and 300-A of the Constitution of India and consequently restrain the respondents and their men, representatives from in any way interfering with the above said land without following due process of law and pass such other order or orders as are deemed fit and proper in the circumstances of the case.”

It is the case of the petitioner that his father Dhanaraju, who is a devotee of Lord Sri Ramulu, purchased land admeasuring Ac.0.70 cents from Chakka Yellamma and Swamy Naidu by way of a sale deed dated 7.3.1957 *vide* registered document bearing No.1092/1957 in the office of the Registrar, Kakinada, for sale consideration of Rs.300/-. The recitals of the said sale deed clearly state about the purpose of purchase. His father while acting as a trustee of Lord

Sri Ramulu, utilized the income derived from out of the said land for propagating idol of Lord Sri Ramulu and for the benefit of trust. His father expired in the year 1984 and after his death, the petitioner has been looking after the said land. As a hereditary trustee of Lord Sri Ramulu in respect of the subject property, he executed lease deed dated 13.11.1995 in favour of Bokka Appa Rao s/o Suryanarayana, registered in the office of the Sub-Registrar, Thallarevu as document bearing No.4531/1995 for lease amount of Rs.500/- per year. Stringent conditions were imposed in the said lease deed in order to protect the property of the Lord. The lessee has been in peaceful possession and enjoyment of the said property. While so, the 3rd respondent and his subordinates with the help of local people tried to encroach the said land, which compelled the petitioner to issue legal notice dated 11.12.2006, calling upon them not to interfere with the possession and highhandedly encroach upon the land with the help of third parties under the guise of granting house site pattas under Indiramma Scheme. The respondents having received the said notice, did not respond to the same. When the 3rd respondent has once again threatened to evict them, the petitioner along with the lessee have filed O.S.No.1736 of 2006 before the II Additional Junior Civil Judge, Kakinada, seeking

permanent injunction and the same is pending adjudication. The complaint of the petitioner is that when respondents 2 and 3 are trying to interfere with the said land, the petitioner made a complaint on 25.01.2007 to the 4th respondent, who refused to receive the same. Hence, the petitioner sent the same by registered post and the same was returned with an endorsement "refused". The petitioner also made an application to the Village Secretary, Korangi under the Right to Information Act, 2005, requesting to furnish fair adangals of the property in question. The Panchayat Secretary vide letter dated 5.2.2007 informed that the fair adangal is with the 3rd respondent, advised the petitioner to approach the 3rd respondent. The petitioner approached the higher officials in the police department complaining about the illegal and unauthorized actions of the 3rd parties and furnished their names, number of proclainer used for damaging the land. The Sub Inspector of Police came to the said land on 24.01.2007 and warned the representatives of respondents 2 and 3 not to repeat such illegal action. The petitioner constrained to submit a complaint to the 4th respondent by way of registered post on 10.02.2007 and the same was also returned with endorsement "not claimed". Under those

circumstances, the petitioner approached this Court and filed the present writ petition.

While admitting the writ petition, this Court granted interim direction on 30.04.2007 in WPMP No.11357 of 2007.

Counter-affidavit is filed on behalf of respondents Nos.1 to 3 stating that the land purchased by the father of the petitioner through a registered sale deed does not contain survey number and however, boundaries of the land purchased by the petitioner is mentioned in the sale deed. The land which is now claimed by the petitioner is a grama kantam (village site) situated in Sy.No.362/1 of Sitarampuram Village, H/o Corangi Village, Thallarevu Mandal, East Godavari District. Under the provisions of Board Standing orders all the village sites vest with the Government and therefore, the petitioner has no right over the land. Since the petitioner has already availed the remedy of filing a suit in respect of his rights over the land and since the matter is ceased by Civil Court, if any findings are given in the present writ petition, it may have adverse effect in the pending suit and therefore, the writ petition is not maintainable and is liable to be dismissed.

Learned counsel appearing for the petitioner would submit that the father of the petitioner purchased the property

in question through registered sale deed for valuable consideration. He further submits that after death of his father, the petitioner being hereditary trustee of Lord Sri Ramulu, executed lease deed in favour of Bokka Appa Rao and the lessee has been in peaceful possession and enjoyment of the same, and if respondents 2 and 3 intend to acquire the same for providing house sites to landless poor, they have to follow the procedure as contemplated under the Land Acquisition Act.

Learned Government Pleader appearing for the respondents would submit that the land purchased by the father of the petitioner does not contain survey number, but the boundaries of the land are mentioned in the sale deed and that the land claimed by the petitioner is a grama kantam and therefore, the petitioner has no right over the land.

In the facts and circumstances of the case and considered view of this Court, it is found that the father of the petitioner purchased the land admeasuring Ac.0.70 cents situated in Sitaramapuram Village through registered sale deed on 7.3.1957 and he utilized the income derived therefrom towards propagating Lord Sri Ramulu and related activities. His father died in the year 1984. The petitioner is his son and hereditary trustee of Lord Sri Ramulu trust. The petitioner

executed lease deed on 13.11.1995 in favour of Bokka Appa Rao and the lessee has been in peaceful possession and enjoyment of the said property. It appears that the 3rd respondent encouraged the third parties to occupy the land in question and also proclaimed that house site pattas will be distributed to his henchmen. Based on the complaint of the petitioner, the 4th respondent warned the representatives of respondents 2 and 3 not to repeat such an illegal action. If respondents 1 to 3 want to acquire the subject land, they must follow the procedure contemplated under the Land Acquisition Act.

Hence, in the interest of justice, the respondents are directed not to interfere with the land in question, which is in possession and enjoyment of the petitioner, without following due process of law.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.GANGA RAO

6th March, 2018
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