

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.29511 OF 2018

ORDER:

The present writ petition came to be filed seeking to declare the proceedings dated 25.5.2018 issued by the 4th respondent, to evict the petitioner from the land admeasuring Ac.0.18 cents on or before 5.6.2018, situated at Sy.No.1269/4 of Mukkavaripalli Village, Obulavaripalli Mandal, Kadapa District as illegal and arbitrary.

The main grievance of the petitioners is that they are the owners of land admeasuring Ac.0.53 cents situated at Sy.No.1268 of Mukkavaripalli Village, Obulavaripalli Mandal, Kadapa District, each having purchased the same under different registered sale deeds dated 16.6.1989 and 20.07.1997 respectively and claim to be in possession and enjoyment of the same. While things stood thus, when the revenue officials started interfering with the possession of the petitioners, the petitioners filed a suit in O.S.No.48 of 2016 on the file of the Junior Civil Judge, Railway Koduru against the respondents 2 and 4 seeking permanent injunction. Along with the suit I.A.No.240 of 2016 was also filed seeking temporary injunction. Vide order dated 8.12.2017, interim injunction was granted, which is in force. It is further stated that on 15.3.2018, the 4th respondent – Tashildar issued a notice under Section 7 of A.P. Land Encroachment Act, 1905 (for short, “the Act”), to show cause as to why the petitioners should not be evicted from the encroached subject, to which the petitioners submitted their explanation on 16.3.2018. The 4th respondent-Tahsildar without considering the explanation submitted by the petitioner in a proper perspective, passed an order on 25.5.2018. Aggrieved thereby, the petitioners preferred an appeal under Section 10 of the Act before the 2nd respondent-District Collector on 10.7.2018 along with an application seeking stay of the order dated 25.5.2018, which is pending. Taking advantage of the

pendency of the appeal without any order of suspension of the order dated 25.5.2018, the officials of the 4th respondent highhandedly entered into the premises of the petitioners on 1.8.2018 and uprooted a big tree in the lands of the petitioners and tried to demolish the structure of a room.

The learned Assistant Government Pleader for Revenue disputes the same. According to him the petitioners are forcibly trying to take possession of the land.

Prima facie, a perusal of the copy of the plaint in O.S.No.48 of 2016, indicates the petitioners are in possession and enjoyment of the subject land. Fact that notice under Section 7 of the Act came to be issued also indicates that the petitioners are in possession of the property at that point of time.

Having regard to the facts and circumstances of the case, without going into the merits of the case, the writ petition is disposed of directing the 2nd respondent-District Collector to deal with the stay application/appeal filed by the petitioners, as the case may be, and pass appropriate orders in respect of the subject property, uninfluenced by the observations made herein, as early as possible preferably within a period of eight to ten weeks, in accordance with law, after giving the reasonable opportunity of hearing to the petitioner and all the concerned.

With the above direction, the writ petition is disposed of. No order as to costs. As a sequel to disposal of the writ petition, WP.M.Ps if any pending shall stand closed.

C. PRAVEEN KUMAR, J

Dated:21.08.2018.
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