

* HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD

+ WRIT PETITION No.150 OF 2016

% 17-04-2018

Tirumala Siva Prasad

... Petitioner

V/s.

\$ The State of Andhra Pradesh
Department of Home,
Secretariat, Hyderabad & Ors.

... Respondents

! Counsel for the petitioner :

Sri I. Venkata Prasad

^ Counsel for the respondents:

Govt. Pleader for Home [AP]

< Gist :

> Head Note :

? CITATIONS :



HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD.

WRIT PETITION No.150 OF 2016.

ORDER :

The petitioner has filed the present writ petition seeking the relief in the nature of writ of mandamus to direct the respondent No.3 to protect and preserve his title and possession over the land Ragadi Chenu situated at Pedda Yammanur village in survey No. 67, Paiki Ac:1-43 cents and survey No.104 Paiki Ac:1-39 cents, total extent Acs:2-82 cents.

2. The case of the petitioner is that the above subject property was in possession and enjoyment of his father during his life time. In the year 2001, one Mr. Sale Chinna Pullaiah, who is his father's sister's son and one Mrs. Varalakshamma, who is his father's brother's wife have filed a suit for permanent injunction against his father in O.S.No.161 of 2001 on the file of the Court of Junior Civil Judge, Koilakuntla. The said suit was decreed in their favour. Aggrieved by the said judgment and decree in O.S.No. 161 of 2001 on the file of the Court of Junior Civil Judge, Koilakuntla, the petitioner has preferred appeal before Senior Civil Judge, Allagadda, in A.S.No.14 of 2006. The said appeal was allowed on 21/10/2010 and the judgment and decree passed in O.S.No. 161 of 2001 was set aside. The said Chinna Pullaiah and Varalakshamma preferred second appeal against the judgment and decree passed in A.S.No.14 of 2006 and the same was numbered as S.A.No.1255 of 2009 and later the second appeal was dismissed on 05/11/2012. Therefore, the petitioner claims that the said Mr.Sale Chinna Pullaiah and Mrs.Varalakshamma have no right, title and possession over the suit schedule land as per the judgment passed in A.S.No. 14 of 2006 and

S.A.No.1255 of 2009 and that they have no right to enter into his land. It is further stated by the petitioner that they are trying to interfere in his possession and enjoyment over the suit schedule property. He made several representations to second and third respondents; the Superintendent of Police, Kurnool and the Station House Officer, Uyyalawada Police Station, Kurnool district but they have not taken any action against the fourth respondent, Mr.Sale Chinna Pullaiah; and therefore, he has filed the present writ petition under Article 226 of the Constitution of India to protect his possession over the suit schedule property.

3. Heard the arguments of the learned counsel for the petitioner and the learned Assistant Government Pleader for Home, representing respondents 1 to 3.

4. The learned counsel for the petitioner submits that he succeeded in the civil courts and obtained a decree in his favour over the suit schedule property against the defendants. Since the defendants have been interfering in his possession, he gave a complaint to second and third respondents to protect his possession but they did not consider his complaint Ex.B-1 dated 27/08/2015 submitted to the Sub-Inspector of Police, Uyyalawada Police Station, therefore, the petitioner has preferred this writ petition.

5. The learned Assistant Government Pleader submits that they have filed written instructions in this regard stating that the petitioner ought to have filed execution petition instead of preferring the present writ petition seeking police protection. The respondents 2 and 3 are the Police officials cannot provide police protection to the petitioner unless they get a police-aid protection order from the concerned court as per law, as the respondents 2

and 3 have no orders or directions from any competent court to protect the possession of the petitioner and they cannot interfere in a civil matter.

6. In the light of the submissions made by the learned Assistant Government Pleader for Home, it is obvious that this writ petition is mis-conceived. The petitioner ought to have proceeded in the civil court by filing execution petition and sought for orders for police-aid to protect his possession. The Police cannot interfere in any civil dispute unless there is an order by the competent court to them to protect the possession of the petitioner. Therefore, there are no merits in this writ petition. Hence, this writ petition is dismissed at the admission stage. No costs.

7. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.



JUSTICE GUDISEVA SHYAM PRASAD.

HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD



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