

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.32068 of 2018

ORDER:

1) Assailing the notice, dated 24.08.2018, issued by the Tahsildar, Kondapi Mandal, the present writ petition came to be filed.

2) The facts which lead to filing of the writ petition are as under:

The marriage of the petitioner with the fourth respondent took place in the year 1969 and out of wedlock they blessed with two children by name Mr.Venkateswarlu and Mr.Madhu. After their marriages, both of them settled down at Yeluruvaripalem Village and Kattavaripalem Village respectively. In a land admeasuring Ac.6.00, the petitioner claims to have constructed a tobacco barren. The said land was gifted to the mother of the petitioner, who inturn gifted the same to the petitioner in the year 1968. The petitioner succeeded to an extent of nearly Ac.12.00 cents from his father, thus the total land held by the petitioner was nearly Ac.18.00 cents. The said land was partitioned vide document No.451 of 2016. In the said partition the petitioner claims to have got land to an extent of Ac.8.22 cents including his mother's property, his elder son got

Ac.3.69 cents and his younger son got an extent of Ac.5.63 cents. It is further stated that the brother of the fourth respondent by name Bezawada Venkaiah asked the petitioner to offer his lands as security for the loan taken in State Bank of India, Tangutur Branch, but the petitioner refused to accept such request. Similar such request was also made by the fourth respondent but the petitioner did not oblige her. Due to said reasons, the younger son of the petitioner and his brother-in-law bore grudge against him, as such he claims to have gone to another son's house and started residing there. On 04.11.2017, the petitioner claims to have executed a registered gift deed vide document No.3550 of 2017 in favour of his grandson by name Mastan Choudary, for entire extent of land which he got in partition. Thereafter, his brother-in-law and younger son lodged a report stating as if they have demanded additional dowry, but the police after preliminary enquiry refused to register any crime. Thereafter, M.C.No.15 of 2017 came to be filed by the fourth respondent claiming maintenance, which is pending. While things stood thus, the fourth respondent lodged a complaint before the Tahsildar-third respondent on 30.07.2018 complaining about the gift settlement deed executed by the petitioner in favour of his grandson, under impression that it was executed in favour of his elder son.

Basing on the said complaint, the Tahsildar issued a notice to the petitioner asking him to appear before him on the ground that the fourth respondent made a request to see that the lands are returned back to her. It is further stated that 145 Cr.P.C. proceedings also came to be issued by the Tahsildar at that stage. It is stated that pursuant to the notice, the petitioner appeared and then his statement came to be recorded. After recording the statement, the Tahsildar demanded the petitioner to give Ac.3.00 of land to the fourth respondent and he will inform further date of enquiry. Challenging the same, the present Writ Petition came to be filed.

3) Learned counsel for the petitioner mainly submits that the Tahsildar has no authority under law to issue a notice asking the petitioner to appear on a particular date for settling the disputes between the family members. In fact the notice does not anywhere indicate any provision of law under which it came to be issued.

4) The Government Pleader for Revenue (AP), represented that the presence of third respondent before the Court was sought for to say as to how and under what circumstances he issued the notice.

5) On 12.09.2018, the third respondent is present before the Court along with the copy of the written instructions said to have been prepared. He does not dispute the issuance of notice to the petitioner herein and his sons, with a request to attend before the Tahsildar for enquiry along with relevant documents. It is said that pursuant to the notice the petitioner and his son appeared on 31.08.2018, on which date their statements were recorded. It appears that the Tahsildar said to have disposed of the matter stating that it is civil in dispute, basing on the written statement.

6) The said instructions are dated 05.09.2018 by which time even the writ petition was not filed before this Court. Obviously these proceedings which are placed before this Court are anti-dated to get over the consequences which the Court expressed on 07.09.2018, on which date the matter was listed for admission. The fact that these written instructions were prepared after filing of the writ petition is evident from the subject referred to in the instructions, wherein there is a reference to filing of the writ petition. From this, it can be said that closing of the matter by the third respondent on the ground that it is civil in nature was only after filing of the writ petition. If no writ petition was filed, the Tahsildar would have definitely pressurized or forced the writ petitioner to part with Ac.3.00 of land in

favour of the fourth respondent. Though the Tahsildar pleads innocence before the Court, but the written instructions which are placed before the Court, the contents of which are not denied by the third respondent and also Government Pleader, would amply establish that the third respondent intended to settle the inter-se disputes between two private individuals by issuing notice and then recording the statements under threat. On 12.09.2018 ie. the date on which he was present, he was not in a position to say as to the provision of law under which he has issued the notice. In fact as observed by me earlier, it is not as if the third respondent has indulged in this act unknowingly. He appears to be aware about the consequences and knowing his jurisdiction as a Tahsildar, tried to take advantage of his post in interfering with private disputes.

7) The facts in issue make it clear that in highhanded manner and without any authority on law, the third respondent tried to interfere with the civil dispute between the petitioner and fourth respondent, which in my view has to be deprecated. It has become a feature for the officers to intervene in private disputes between the parties and try to settle the same though they have no authority to do so.

8) Accordingly, the writ petition is allowed quashing the impugned notice dated 24.08.2018. Having regard to the

fact that the impugned notice came to be issued to settle a private dispute between the parties, thereby putting the writ petitioner to untold hardship and misery, this Court is of the opinion that it is a fit case where the third respondent shall pay a sum of Rs.10,000/- to the petitioner towards costs.

9) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

27.09.2018
gkv



JUSTICE C. PRAVEEN KUMAR