

THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.37204 OF 2016

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for respondents 1 to 6.

The prayer in the writ petition is as under:-

“.....to issue writ or order or direction more particularly one in the nature of writ of mandamus, (1) declaring the action of the Respondent Nos.1 to 6 in not demarcating the land of the petitioner and the respondent Nos.7 and 8, which is adjacent to Forest area and also in granting temporary leases for excavation of red soil without verifying the land physically on ground in favour of respondent Nos.7 and 8, (2) based on the temporary lease the respondent Nos.7 and 8 has excavated the red soil indiscriminately causes crores of rupees loss to the Government and the petitioner's land was completely damaged which is arbitrary, bad and illegal, violation of Article-14 and 300A of Constitution of India and also violation of Telangana Minerals Concession Rules, consequently direct the respondent Nos.1 to 6 to demarcating the land of the petitioner and the respondent Nos.7 & 8 as per their documents in the interest of justice and pass such other order.....”

The facts of the case are that the petitioner purchased an extent of Acs.15.00 in Sy.Nos.50, 51 and 52 from one Mohd. Moizuddin under a registered sale deed *vide* document No.9970 of 2004, dated 18.11.2004. Originally, Sy.Nos.50, 51 and 52 of Singampally Village of Makloor Mandal are patta lands and total extent of land covered by the said survey numbers is Acs.175.00. Since the date of purchase of said lands, the petitioner has been in exclusive possession and enjoyment of the same. While the matter stood thus, the 4th respondent has issued temporary lease in favour of respondents 7 and 8 to dig the red soil in Sy.Nos.50, 51 and 52 of Singampally Village of Makloor Mandal, which is

adjacent to the forest lands. However, respondent Nos.7 and 8 instead of digging the red soil from the leased areas, they are trying to dig the red soil from the petitioner's land. Therefore, the petitioner submitted representations dated 02.10.2010, 16.10.2014, 23.09.2016, 16.10.2014 and 06.01.2016 to respondent Nos.2, 4, 5 and 6 requesting them to survey the entire extent of Sy.Nos.50, 51 and 52. As there is no response from the respondents, the present writ petition is filed.

Be that as it may, the petitioner purchased the said land in the year 2004 from one Mohd. Moizuddin under a registered sale deed dated 18.11.2004. The petitioner does not have any privity of contract with the official respondents 1 to 6. Under the guise of temporary lease issued in favour of respondents 7 and 8, if they are attempting to dig the red soil from the lands of the petitioner, the remedy left open to him is to approach the competent civil Court. Admittedly, the petitioner has no grievance against respondents 1 to 6 and there is no privity of contract between them and hence, the writ petition is not maintainable. The petitioner has to enforce his rights against respondents 7 and 8 under private law remedy. Hence, he cannot seek extraordinary jurisdiction under Article 226 of the Constitution of India. Under these circumstances, this Court is of the opinion that there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. However, it is open to the petitioner to seek appropriate remedies available to him, as per law. No costs.

The Miscellaneous Petitions, if any, pending shall stand closed.

JUSTICE P.KESHA RAO

Date : 17.04.2018
ssp

