

**THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO**

**Criminal Petition No.10924 of 2013**

**ORDER:**

In this petition filed under Section 482 Cr.P.C, the petitioner/accused seeks to quash the proceedings against him in C.C.No.21 of 2013 on the file of Principal Junior Civil Judge-cum-Judicial Magistrate of First Class (Land Grabbing Court), Ranga Reddy District at L.B.Nagar, which was registered for the offences under Sections 186, 188, 434, 427 IPC and Sections 4 and 5 of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1892 (for short "the Act").

2) The Mandal Revenue Inspector, Serilingampally Mandal, gave report to the police of Miyapur PS basing on which a case in Crime No.509 of 2012 under Sections 186, 188, 434, 427 IPC and Sections 4 and 5 of the Act was registered and after investigation charge sheet was filed.

3 a) The brief facts of the charge sheet are that the accused, who is the Managing Partner of M/s. Pooja Builders, purchased land in an extent of 1177 sq.yards in Plot No.37/A in Sy.No.41 (patta land) of Miyapur village under registered sale deed No.11122/2011 dated 19.11.2011 and started excavation work for construction of a residential complex and during such excavation, he encroached upon the adjacent Government land in Sy.No.28 to an extent of 297 sq.yds. Though objections were

raised by concerned staff, he did not heed to them. The charge sheet was taken cognizance and registered as C.C.No.21 of 2013.

Hence the instant Criminal Petition.

- 3) Heard both sides.
- 4) Opposing the criminal proceedings, the case of the petitioner is that the petitioner entered into a registered development agreement-cum-GPA dated 19.12.2011 with the original owners to construct a residential complex and he started construction of residential complex in the extent of 1177 sq.yards in Plot No.37/A in Sy.No.41 situated in Miyapur village by obtaining all necessary permissions from Town Planning Section of GHMC. It is the further case of petitioner that excavation is being done in Sy.No.41 and he never encroached upon the alleged Government land in Sy.No.28 and the contention of the complainant in that regard is false. When some officials from 2<sup>nd</sup> respondent's office tried to illegally stop the construction of residential complex in the above said property, the petitioner filed Writ Petition No.27639/2012 and obtained a direction against the 2<sup>nd</sup> respondent—officials not to interfere with the construction activity in the above said property and same is pending in the High Court. While-so, one Mr. Mahesh Yadav and others demanded some amounts illegally from the petitioner without any right and when petitioner did not budge to their illegal demand, they filed PIL No.298/2012 before the High Court and the said PIL was disposed of with the direction that the petitioner can carryout the construction activity without encroaching upon any

Government land. In the said petition, the 2<sup>nd</sup> respondent filed a report stating that the Assistant Director for Survey and Land Records (ADS & LR), Ranga Reddy District has demarcated the Government land in Sy.No.28 and patta land in Sy.No.41 through the Inspector, Survey and reported that an extent of 297 sq.yds was encroached by the petitioner's construction firm. The petitioner however disputed the said report stating that the said report was not binding on him as the same was prepared behind his back. Thereafter, Hon'ble Court passed an order that the petitioner can proceed with the construction without encroaching any Government land. In spite of the above proceedings, a false case is foisted against the petitioner as if he encroached upon 297 sq.yds of the Government land which is an utter falsehood. It is contended on behalf of the petitioner that the criminal case is not maintainable inasmuch as under the provisions of the A.P. Land Grabbing (Prohibition) Act, unless the Special Court declares the petitioner as a land grabber, criminal case cannot be registered. Further, under the provisions of Sections 11 and 12 of the said Act, no Court other than Special Court shall take cognizance of offence punishable under this Act except with the previous sanction of the Special Tribunal. In view of the procedure laid down in the Act, the police could not have investigated and filed charge sheet before the Magistrate.

5) Per contra, learned Additional Public Prosecutor would argue that the petitioner is a land grabber, who grabbed 297 sq.yds of the land belonging to the Government and in view of his abrasive act, the

Mandal Revenue Inspector lodged report with the police of Miyapur PS and same was investigated and charge sheet was filed in the Court of Principal Junior Civil Judge-cum-Judicial Magistrate of First Class, which Court is designated as Land Grabbing Court under the provisions of the A.P Land Grabbing (Prohibition) Act and therefore, it is futile for the petitioner to argue that the criminal proceedings are not in accordance with the Act. He thus prayed to dismiss the petition.

6) In the light of above rival arguments, the point for determination is:

*“Whether there are merits in this petition to allow?”*

7) **POINT:** As can be seen, the accusation is that the petitioner while excavating the land in Plot No.37/A in Sy.No.41 (patta land) of Miyapur Village, encroached and grabbed 297 sq.yds of the land in Sy.No.28 belonging to the Government and thus committed the offence of land grabbing. Police after investigation filed charge sheet before the Special Court. Be that it may, the prime contention of the petitioner/accused is that the criminal proceedings are not maintainable in view of the provisions of the A.P Land Grabbing (Prohibition) Act. As can be seen, the charge sheet was filed before the Court of Principal Junior Civil Judge-cum-Judicial Magistrate of First Class, Ranga Reddy District, at L.B.Nagar, which Court is designated as Land Grabbing Court under the provisions of the A.P Land Grabbing (Prohibition) Act.

8) In that view of the matter, this Criminal Petition is disposed of giving liberty to the petitioner to approach the Trial Court and file a petition seeking discharge by taking the pleas that are legally permissible to him including the plea of jurisdiction of the Trial Court, in which case, the said Court shall pass an appropriate order on merits.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Date: 14.11.2018  
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**U. DURGA PRASAD RAO, J**

