

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition no.41748 of 2018

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner requesting to grant Writ of Mandamus declaring the action of the 2nd respondent and his subordinates in trying to interfere with the peaceful possession and enjoyment of the land of the petitioner to an extent of 40 cents in Sy.no.70/ W2 of Joharapuram village, Kurnool Mandal, without issuing a notice to the petitioner and following the procedure established by law, as illegal, arbitrary and violative of principles of natural justice & fair play apart from being violative of Article 21 of the Constitution of India; and, consequently direct the 2nd respondent not to interfere with the peaceful possession and enjoyment of the petitioner over the subject property.

2. I have heard the submissions of the learned counsel appearing for the petitioner; of learned Government Pleader for Municipal Administration & Urban Development, appearing for the 1st respondent; and, of the learned Standing Counsel, appearing for the 2nd respondent/ Municipal Corporation. I have perused the material record.

3. From the pleadings in the writ petition and the submissions made, it is discernable that during the life time of the mother of the petitioner, under similar circumstances, she filed W.P.no.43876 of 2017 before this Court. After hearing the submissions of the learned counsel for the said petitioner and the learned Standing Counsel appearing for the Municipal Corporation, this Court disposed of the said writ petition, by an order, dated 03.01.2018, directing the respondents therein not to interfere with the peaceful possession of the petitioner therein over the subject

property in any manner whatsoever except by following the procedure established by law. Thereafter, the mother of the petitioner died.

4. Now, the petitioner filed this writ petition *inter alia* stating that similar attempts to interfere with the possession of the petitioner over the subject land are being made on the ground that the earlier order was obtained by the mother of the petitioner. In the said circumstances, the petitioner issued a notice, dated 29.09.2018, stating that the intended action of the respondents is high-handed and contemptuous in view of the earlier orders of this Court. In view of the attempts being made to interfere with the possession of the petitioner over the subject land, the petitioner apprehends that he may be dispossessed illegally from the subject property. Hence, the present writ petition is filed by the petitioner.

5. Learned Standing Counsel for the 2nd respondent Municipal Corporation, while not disputing the fact that the mother of the petitioner obtained an order from this Court in respect of the same subject matter, *inter alia* stated that in the entire affidavit of the petitioner there is no mention of the relevant dates on which the alleged attempts of dispossession were made and also the details of the persons who made such attempts and that therefore, there is no cause of action for the petitioner.

6. However, in reply, learned counsel appearing for the petitioner contended that necessary pleading is mentioned in the writ affidavit, particularly, in paragraph 5.

7. Having regard to the facts & submissions and the earlier orders of this Court, the Writ Petition is disposed of directing the respondents not to interfere with the possession and enjoyment of the petitioner over

the subject property in any manner whatsoever except by following the procedure established by law.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

20th November, 2018
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