

THE HONOURABLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION No.24783 of 2013

ORDER:

Heard learned counsel for the petitioner as well as learned Government Pleader appearing for the respondents 1 and 2.

2. The prayer sought in the writ petition is as under:-

“... to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondent No.1 and 2 in interfering with the civil dispute between the petitioner, his mother and 3rd respondent in respect of Ac 0.32 gts. of wet land in Sy.No.206/A of the mother of the petitioner directing to cancel sale deed vide Document No.6083 dt.31.10.2012 and to execute sale deed in favour of the 3rd respondent situated at Takkellapadu Village, Miryalaguda Mandal, Nalgonda District as illegal, arbitrary and unconstitutional and consequently direct the respondents 1 and 2 not to harass the petitioner or interfere in civil dispute mentioned above and to pass such other order or orders as this Hon’ble Court may deem fit and proper in the interest of justice.”

3. The specific contention of learned counsel for the petitioner is that the respondents 1 and 2 are interfering with the civil dispute between the petitioner and the 3rd respondent in respect of Ac.0.32 guntas of wet land in Survey No.206/A belonging to the mother of the petitioner and pressurizing the petitioner to cancel the sale deed, dated 31.10.2012 and execute another sale deed in favour of the 3rd respondent.

4. Learned Government Pleader placed on record the written instructions issued by the Station House Officer, Miryalguda Rural Police Station, Nalgonda. Learned Government Pleader also brought to the notice of this Court that the territorial jurisdiction of the subject

land comes within the limits of the Station House Officer, Miryalguda Police Station, Nalgonda District.

5. From a perusal of the said written instructions, it is revealed that one Eggidi Padma W/o.Kishtaiah R/o.Gaddipalli Village of Garedepalli Mandal, Nalgonda District, lodged a complaint on 10.08.2013 with the Station House Officer, Miryalguda Rural Police Station, Nalgonda, stating that she is the owner of the land in Survey No.206/A situated at Takkalapadu Village of Nalgonda District. But, one Mallepoalli Nageswer Rao and Sattamaiah entered into her land and tried to assault by threatening and as such she requested the police to take necessary action. Learned Government Pleader brought to the notice of this Court that pursuant to the said complaint, a case in Crime No.305 of 2013 was registered for the offences under Sections 447, 427 and 506 read with 34 IPC. After completion of investigation, charge sheet was also filed before the concerned Magistrate. After taking cognizance of the offence, the Court below taken the case on file as C.C.No.355 of 2014 and the same is pending trial. Learned Government Pleader also submitted that the respondents 1 and 2 never interfered with the civil disputes between the petitioner and the 3rd respondent, more particularly with reference to the subject land.

6. From the arguments of the learned counsel for the petitioner as well as learned Government, it appears that there are civil disputes between the petitioner and the 3rd respondent in respect of the land in Survey No.206/A and both the petitioner as well as the 3rd respondent

are claiming the same land. When there are disputed questions of fact, more so, a civil dispute, they cannot be adjudicated in a writ petition filed under Article 226 of the Constitution of the India. The Apex Court in **Sanjay Kumar Jha v. Prakash Chandra Chaudary**¹ held as under”:

“10. It is well settled that in proceedings under Article 226 of the Constitution of India the High Court does not adjudicate, upon affidavits, disputed questions of fact. In arriving at the finding that the land offered by respondent Prakash Chandra Chaudhary was located within Giriyama Mauza of Falka Block the learned Single Bench embarked upon adjudication of a hotly disputed factual issue, which the High Court, while exercising its writ jurisdiction, does not do.

13. It is well settled that proceedings under Article 226 of the Constitution of India, the High Court cannot sit as a Court of Appeal over the findings recorded by a competent administrative authority, nor re-appreciate evidence for itself to correct the error of fact, that does not go to the root of jurisdiction. The High Court does not ordinarily interfere with the findings of fact based on evidence and substitute its own findings, which the High Court has done in this case. Even assuming that there had been any error in the computation of marks in respect of fixed and movable assets, the High Court could, at best, have remitted the case of respondent Prakash Chandra Chaudhary to the concerned authorities for reconsideration.”

7. In these circumstances, this Court is of the opinion that there are no merits in the writ petition and the same is liable to be closed.

¹ 2019 (2) SCC 499

8. Accordingly, the writ petition is closed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

P. KESHA VA RAO, J

12th December 2019

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