

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.22986 of 2018

ORDER:

The present writ petition is filed to declare the inaction of the respondents in granting police protection over the land admeasuring Ac.3.06 guntas in Survey No.406 (406/5) situated at Parvedula Village, Peddavoora Mandal, Nalgonda District, covered under the order in I.A.No.142 of 2018 in O.S.No.38 of 2018 on the file of the Junior Civil Judge's Court, Nidamanoor, dated 07.06.2018, as being illegal, arbitrary and dereliction of duty.

2. Heard Sri V. Ravindar Rao, learned senior counsel representing Sri D. Jaipal Reddy, counsel for the petitioner and the learned Assistant Government Pleader for Home appearing for the respondents 1 to 5.

3. The case of the petitioner is that the petitioner is owner and possessor of land admeasuring Ac.3.06 guntas of Parvedula Village and that in recognition of his ownership, the Government after conducting detailed survey, has issued pattadar passbook. Notwithstanding that the petitioner is in possession and enjoyment of the said agricultural land, taking advantage of the absence of the petitioner from the village on account of his professional commitment and also that the said lands are being look after by the petitioner's father, who is aged about 80 years, the respondents 6 to 10

started interfering with the possession of the petitioner, claiming that the said lands are purchased by them from people, who have no right or interest in the subject land.

4. Further, the petitioner in order to protect the lands from being encroached by the respondents 6 to 10 herein, had filed the suit for perpetual injunction, vide O.S.No.38 of 2018, along with I.A.No.142 of 2018 for temporary injunction, on the file of Junior Civil Judge's Court at Nidamanoor. The Court after considering the material on record was pleased to issue ad-interim injunction on 07.06.2018 in respect of the above land against the respondents. The learned senior counsel appearing for the petitioner submits that the said suit has been decreed in favour of the plaintiff/petitioner herein on 16.11.2018.

5. While the temporary injunction order was in force, the respondents had sought to interfere with the enjoyment of the petitioner over its land by trespassing and trying to plough the land, which was resisted by the petitioner's father and their servant. Thereafter, the petitioner's father gave a complaint on 26.06.2018 before the Station House Officer by bringing to the notice of the said authority of the interference caused by the unofficial respondents in violation of the injunction order.

6. It is submitted by the learned senior counsel appearing for the petitioner that by the said letter the petitioner not only brought to the notice of the official respondents about the interference being caused by the unofficial respondents in violation of the injunction order granted by the learned Junior Civil Judge, Nidamanoor, the petitioner also sought protection from the people named in the said complaint.

7. The learned senior counsel for the petitioner further submits that though the petitioner was successful till now in protecting itself and its possession and enjoyment over the agricultural land, the interference from the respondents 6 to 10 is increasing day by day owing to the fact that the suit filed by the petitioner herein having been decreed in favour of the petitioner on 16.11.2018 and the crop cultivated by the petitioner in the subject land is ready for harvest. Thus, it is claimed that the respondents 6 to 10 are intending to cause harm to the said standing crop by not allowing the petitioner to harvest the same and pleads for a direction to the official respondents to extend the police aid to enable the petitioner to harvest the standing crop. The learned counsel in support of his plea for seeking police aid on account of the judgment and decree dated 16.11.2018 in O.S.No.38 of 2018 granting perpetual injunction, placed reliance on the judgment of this

Court in the case of ***Kotak Mahindra Bank Ltd., v. S.H.O., Madhapur P.S., Hyd.***¹

8. On the other hand, the Government Pleader for Home submits that the petitioner has approached the learned Junior Civil Judge, Nidamanoor and obtained *ex parte* ad-interim injunction, wherein the Junior Civil Judge's Court restrained the respondents from interfering with the peaceful possession and enjoyment of the plaintiff/petitioner herein over the suit scheduled property and the Court below did not direct the police authorities to extend the police aid. He further submits that though the suit now stands decreed in favour of the petitioner, the petitioner has to take steps for execution of such decree wherein an application can be filed for extending police aid and obtain orders from the concerned executing Court. In the absence of any such order from the concerned Court, the authorities were justified in not extending the police protection.

9. Having regard to the submissions made by the learned counsel for the parties, the issue that falls for consideration in the present writ petition is as to whether the petitioner is entitled to seek police aid for enforcement of the judgment and decree in O.S.No.38 of 2018 dated 16.11.2018. As seen from the material placed on record and considering the fact

¹ 2016 (1) ALD 696 (DB)

that the petitioner's title to the subject land is recognized on account of the issuance of pattadar passbook bearing No.T28260171352 with khata No.2015 by the Telangana Government and also taking note of the perpetual injunction granted by the learned Junior Civil Judge, Nidamanoor, vide judgment and decree in O.S.No.38 of 2018, dated 16.11.2018, this Court is *prima facie* of the view that the petitioner has established his title and possession over the subject land. Further, a Division Bench of this Court in the case of ***Boina Laxmi v. State of Andhra Pradesh***² while affirming the order of the learned single Judge dealing with the grant of police aid for implementing and enforcing of the judgment and decree has observed as under:

“the appellants’ interests have been adequately safeguarded by the learned Single Judge making it clear that the order of police protection would be available to the respondent-writ petitioner only till the order passed by the civil Court, in IA No.851 of 2015 dated 18.7.2017, was stayed, reviewed or set aside by a superior Court. In an intra-Court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal.”

10. Since in the facts of the present case, it is claimed that the petitioner has undertaken cultivation operations in the said land and the same is ready for harvesting and is apprehending interference at the hands of the respondents 6

² 2019 (1) ALD 263 (DB)

to 10 and their henchmen, this Court is of the view that a direction is to be issued to the respondents 2 to 4 to extend necessary police aid to the petitioner to enable the petitioner to harvest the said crop by deploying the necessary force to maintain law and order.

11. Accordingly, the writ petition is allowed to the extent as indicated above. However, there shall be no order as to costs.

12. As a sequel thereto, miscellaneous applications, if any, pending in these writ petitions shall stand closed.

T. VINOD KUMAR, J

Date: 03.12.2019
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