

THE HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.6643 of 2014

ORDER:

Heard learned counsel for the petitioner as well as learned Government Pleader appearing for the respondents 1 to 3.

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

“...to issue appropriate writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the action of respondents 4 & 5 in continuously obstructing either the petitioner or his tenant from cultivating the land, though they have no manner of right or title over petitioner's land in Sy.No.1, 27, 182, 186, 214, 215, 255 and 256 totally Ac.6.00 guntas of Chowdapur Village, Kulkacherla Mandal, R.R. Dist. and not allowing the petitioner to put pump set to the bore well got dug by him on the above land and the action of respondent No.3 in not taking any action on the report lodged by petitioner on 30.12.2013 and 05.01.2014 and also action of 2nd respondent in not considering the representation of the petitioner dt.13.01.2014 to take against respondents 4 & 5, as legal, arbitrary and unconstitutional, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

3. Learned counsel for the petitioner vehemently argued that in spite of giving complaints to the 3rd respondent, no stringent action is being taken against the respondents 4 and 5. Thereby, they are continuously obstructing him and his tenants from cultivating the land.

4. The 3rd respondent filed a counter-affidavit stating that on the complaint lodged by the petitioner, the respondent police have registered crimes, vide C.C.Nos.270 of 2006 and 323 of 2006 and Crime No.93 of 2009, for the offences under Sections 447, 504, 506 and 341 IPC and investigation was taken up. It is further mentioned that on 14.11.2009, one Parigi Ramulu also lodged a complaint stating that the respondents 4 and 5 illegally trespassed into the land and cut

the teakwood and committed theft of the said trees. Basing on the said complaint, the 3rd respondent registered a case in Crime No.107 of 2009 under Sections 427, 188 and 379 IPC. After collecting the evidence, the 3rd respondent arrested the accused i.e., respondents 4 and 5 herein, on 16.11.2009. After completion of investigation, charge sheet was also filed and the same is taken on file vide C.C.No.205 of 2010. Again in the year 2013, one Parigi Ratnaiah lodged another complaint, dated 09.07.2013. Pursuant to the said complaint, Crime No.80 of 2013 was registered against the respondents 4 and 5 herein. After completion of investigation, charge sheet was also filed and the same was taken on file vide C.C.No.327 of 2013. It is specifically mentioned in the counter-affidavit that in spite of giving several representations to the respondents 2 and 3, no action was taken is specifically denied. In fact, the respondents acting on the representations given by the petitioner and others, took up investigation, arrested the accused and filed charge sheets. In the counter-affidavit, it is specifically mentioned that the 3rd respondent provided protection to the petitioner for fixing pump set to the bore well and to cultivate the land situated in Survey Nos.1, 27, 182, 186, 214, 215, 255 and 256, totally admeasuring Ac.5.20 gts., from the respondents 4 and 5.

5. Learned counsel for the petitioner brought to the notice of this Court that in spite of registering the crimes against the respondents 4 and 5, they are repeatedly interfering with the possession of the petitioner in respect of the subject property. Learned counsel also

brought to the notice of this Court that the petitioner filed a suit in O.S.No.75 of 2009 against the respondents 4 and 5 for injunction simplicitor. The petitioner also filed another suit in O.S.No.87 of 2010 claiming damages against the respondents 4 and 5. The above said two suits are pending consideration.

6. In the light of the averments made in the affidavit filed in support of the writ petition and also the contents of the counter-affidavit, it is evident that the respondents 4 and 5 repeatedly interfering with the peaceful possession of the petitioner in respect of the subject property again and again. Learned counsel for the petitioner also brought to the notice of this Court that the petitioner has taken steps for violation of injunction granted to him in the civil suit by filing an execution petition for sending the respondents 4 and 5 to civil imprisonment. In spite of the respondents 4 and 5 are imprisoned for violation of the injunction orders, they are again interfering with the possession of the petitioner in respect of the subject land.

7. In these circumstances, the 3rd respondent is directed to give police protection as and when required by the petitioner and as and when the representation is made.

8. With the above said direction, the writ petition is disposed of. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

P. KESHA RAO, J

10th December 2019

mar