

**THE HON'BLE SRI JUSTICE T.VINOD KUMAR**

**WRIT PETITION No. 27780 of 2019**

**ORDER:**

The present Writ Petition is filed to declare the action of the respondents in not considering the petitioner's representation dated 29.11.2019 and consequently direct the respondents to provide police protection in view of the judgment and decree passed by the Junior Civil Judge, Gajwel dated 03.02.2012 in O.S. No.126 of 2010 granting perpetual injunction in favour of the petitioner, as being illegal, arbitrary and unconstitutional.

While the above writ petition was pending for the Government Pleader to get instructions, I.A. No. 2 of 2019 was filed on behalf of one V. Srinivas, to implead himself in the writ petition as Respondent No. 8, and the said application was allowed by the court on 26.12.2019.

Heard Sri Kotagiri Sreedhar, learned Counsel for the petitioner, learned Assistant Government Pleader for Home and Sri M.A.K. Mukheed, learned Counsel appearing for the 8<sup>th</sup> respondent.

The brief facts of the case are that, the petitioner is the owner and possessor of the property to an extent of 90 square yards in Sy.No.543/U of Munigadapa village, Jagadevpur Mandal, Siddipet District, having purchased the same from its previous owner Sri N. Jaipal Reddy under a registered sale deed bearing document No.4374/2003 dated 24.09.2003. It is stated that when respondent No.8 started interfering in the petitioner's schedule property in July, 2010, without having any right thereon, the

petitioner filed a civil suit before the Junior Civil Judge, Gajwel in O.S. No.126 of 2010 wherein the respondent No.8 in the present Writ Petition was also arrayed as a defendant. The said suit was decreed in favour of the petitioner on 03.02.2012 by granting perpetual injunction. It is claimed, in the Writ Petition, that after passing of the judgment and decree in the above suit, the respondent No.8 has kept silent for all these days and suddenly from October, 2019, the respondent No.8 once again started to interfere with the property of the petitioner and created nuisance and also threatened the petitioner to vacate the land, failing which a threat to kill the petitioner was also made. It is claimed that upon facing such situation, the petitioner approached respondent No.7 on multiple occasions and sought for providing police protection to the petitioner and to the petitioner's property from the hands of respondent No.8. As no action is taken against respondent No.8 and the respondent No.7 having not even received the complaint of the petitioner, the petitioner was forced to send the complaint by registered post to all the respondents on 29.11.2019. Thus, the petitioner claims that in view of the perpetual injunction granted by the trial court, the respondent No.7 is required to extend police aid for implementing the judgment and decree passed by the trial Court in O.S. No.126 of 2010.

Opposing the above submission, learned Counsel for the 8<sup>th</sup> respondent submits that the petitioner has approached this Court by suppressing the fact, that the wife of respondent No.8 having filed a suit against the petitioner and obtained a decree from the Court of competent jurisdiction, restraining the petitioner from

interfering with the possession and enjoyment of the property admeasuring 75 square yards, the present petition is liable to be dismissed on the sole ground of the petitioner having approached this Court with unclean hands. By the said counter affidavit filed on behalf of the 8<sup>th</sup> respondent, it is claimed that the wife of 8<sup>th</sup> respondent has purchased the land admeasuring 75 square yards situated at Munigadapa village, Jagdevpur Mandal, Siddipet District from its vendor viz., Sri N. Jayapal Reddy vide registered sale deed document bearing No.1203 of 2010. Upon purchase of the said plot of land by the wife of 8<sup>th</sup> respondent, when the petitioner sought to interfere therein, the wife of 8<sup>th</sup> respondent filed a suit in O.S. No.128 of 2010 for injunction against the petitioner and the said suit was decreed in favour of the wife of 8<sup>th</sup> respondent on 16.03.2018. By the said counter-affidavit, it is also stated that initially 8<sup>th</sup> respondent's father purchased 200 square yards of property, which was divided between respondent No.8 and the brother of respondent No.8 and the petitioner being a neighbour and owner of 90 square yards, taking advantage of one of the boundaries mentioned in the petitioner's sale deed as Veterinary hospital on the north side and there being an open land admeasuring 75 square yards which has been purchased by the wife of 8<sup>th</sup> respondent through registered sale deed, the petitioner is seeking to encroach thereon.

The learned Assistant Government Pleader for Home submits that as there is no direction from the competent court to extend police aid, the police authorities did not consider the request of the petitioner, more particularly, when the wife of 8<sup>th</sup> respondent has also obtained a judgment and decree in her favour. He would

further submit that if any direction is given by the court, the respondent authorities would abide by the same.

Having given due consideration to the submissions made, it is to be seen that both the petitioner and the wife of 8<sup>th</sup> respondent are claiming title to their respective share of land from a common vendor. Though, one boundary of the petitioner's land as well as the 8<sup>th</sup> respondent's land is common viz., Veterinary hospital, which is the north side boundary of the petitioner's property, the same boundary is shown as the boundary on the west side of the 8<sup>th</sup> respondent's property. From the copy of the sale deed of the petitioner, it is to be noted that in addition to the boundary on north side being shown as Veterinary Hospital, the boundary on the south side is shown as 30 feet road, while in respect of the 8<sup>th</sup> respondent, on the west side 30 feet road is shown. Thus, the identity of the properties of the petitioner as well as 8<sup>th</sup> respondent, based on the boundaries as shown in the sale deed document, are entirely different. It is based on the said documents, both the petitioner as well as the wife of the 8<sup>th</sup> respondent have approached the Court of competent jurisdiction and the said Court has passed judgments and decrees in both the matters in favour of the plaintiffs therein. Thus, today the petitioner as well as the plaintiff are armed with judgments and decrees in their favour passed by the competent Court of jurisdiction which also have attained finality. However, merely being possessed by the judgments and decrees in their favour, the petitioner as well as 8<sup>th</sup> respondent cannot lay claim to any piece or part of the property. Since, the petitioner as well as the 8<sup>th</sup> respondent have acquired

their respective part of the property through common vendor and are claiming title to their respective property, the proper course that the petitioner as well as 8<sup>th</sup> respondent should have adopted is to seek localisation of their respective properties with the help of a surveyor and to fix boundaries, whereupon they can lay their claim to the land on the strength of the decree obtained. Since, the identification/localisation of the property being an issue, the claim of the present petitioner seeking for police protection for implementing the judgment and decree passed by the Junior Civil Judge in O.S. No.126 of 2010 dated 03.02.2012, particularly when the respondent No.8 is also having a judgment and decree in his favour from a competent Court of jurisdiction, this Court cannot direct the respondent police authority to extend police aid to the petitioner.

The learned Counsel for the petitioner in support of his submissions placed reliance on the judgment of this Court in **Satyanarayana Tiwari v. S.H.O. P.S. Santhoshnagar<sup>1</sup>**, wherein it is observed that the High Court under Article 226 of the Constitution of India has ample jurisdiction, to issue a writ or direction to all the authorities including police within the State to enforce orders of civil Court as confirmed by the High Court in a Civil Revision Petition and maintain the rule of law. However, the said case on which reliance is placed by the learned Counsel for the petitioner is of little help for the reason that the police authorities cannot interfere in civil disputes particularly when the other party against whom the petitioner is seeking police aid for

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<sup>1</sup> AIR 1982 AP 394

implementation of the decree is also protected by a judgment and decree obtained by such person from a competent Court of jurisdiction and the parties not taking any steps in furtherance obtaining such judgment and decrees to have the property identified and demarcated, the claim of the petitioner that this Court can exercise jurisdiction under Article 226 of the Constitution of India, in directing to extend police aid, would amount to this Court putting a stamp of approval only on one of the judgment and decrees i.e., O.S. No.126 of 2010 and would indirectly amount to annulling the judgment and decree in O.S. No.128 of 2010 without there being any valid challenge from the other party to the judgment and decree.

As the petitioner has failed to take steps to get the schedule property localised as per the sale deed and identification of the property being an issue, particularly when there exists a rival claim, police protection cannot be ordered to be extended merely on the strength of the judgment and decree. Thus, the action of the police authorities in not considering the representation of the petitioner dated 29.11.2019 for extending police aid cannot be found fault with.

For the aforesaid reasons, the Writ Petition is misconceived and is, accordingly, dismissed.

As a sequel thereto, the miscellaneous petitions, pending if any, shall stand closed. No order as to costs.

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**JUSTICE T.VINOD KUMAR**

Date: 17.02.2020.  
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