

THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

WRIT PETITION No.15312 OF 2020

ORDER:-

This writ petition under Article 226 of the Constitution of India, is filed seeking grant of police aid for effective implementation of the ad-interim injunction order passed in I.A.No.1175 of 2017 in O.S.No.76 of 2017 on the file of the learned IX Additional District and Sessions Judge, Kovvur, West Godavari District.

2. Heard learned counsel for the petitioners, learned Government Pleader for Home and learned counsel for unofficial respondents.

3. The petitioners claim to be in possession of the land covered by R.S.Nos.216/2, 222, 230, 229/3, 200, 310, 203/3, 203/1, 359, 403/3, 402/2, 309 of Beemolu Village of Gopalapuram Mandal. It is their case that there is a long history of litigation in respect of the aforesaid lands and the petitioners have fought long legal battle and succeeded in the said litigation and their possession was declared in respect of the said lands by the Honourable Supreme Court in the case of **G. Brahmayya and others vs Ala Venkaterao and others**¹. As there was a threat to their possession in respect of the said lands despite the aforesaid order passed by the Honourable Supreme Court, that they have filed a suit in O.S.No.76 of 2017 on the file of the learned IX Additional District and Sessions Judge, Kovvur, West Godavari District and obtained ad-interim injunction against the respondents therein in I.A.No.1175 of

¹ (1990) 2 SCC 283

2017. Therefore, it is their case that despite the order passed by the competent civil Court restraining the un-official respondents herein from interfering with the possession of the petitioners in respect of the said land, that they have been interfering with their possession as there is a standing crop now in the said lands. Therefore, for effective implementation of the ad-interim injunction order that was passed in I.A.No.1175 of 2017 in O.S.No.76 of 2017, they sought police aid alleging that the police are not granting police aid to them as there is civil dispute pending between both the parties.

4. The said claim of the petitioners is opposed by the un-official respondents herein stating that the matter is still pending consideration before the civil Court and the rights of the parties and the possession of the parties in respect of the said land is yet to be determined by the civil Court and as such, no police aid can be granted to the petitioners when the dispute is still pending in the civil Court.

5. Learned Government Pleader for Home would submit that as there is a civil suit pending between both the parties to the litigation and as the dispute is of civil nature, that usually police will not grant any police aid unless there is an order from the Court.

6. A perusal of the record shows that there was a long line of litigation between the petitioners and the un-official respondents in respect of the aforesaid lands and the petitioners fought a long legal battle in this regard. No doubt, as per the Judgment of the Honourable Apex Court in **G. Brahmayya and others vs Ala Venkaterao and others' case** (referred supra), the rights of

the parties in respect of the said lands are determined. However, the record shows that the petitioners have filed a suit in O.S.No.76 of 2017 on the file of the learned IX Additional District and Sessions Judge, Kovvur, West Godavari District for permanent injunction against the respondents therein and also filed an Interlocutory Application in I.A.No.1175 of 2017 for grant of temporary injunction and the Court has initially granted an *ex parte* ad-interim injunction orders against the respondents restraining them from interfering with the possession of the petitioners in respect of the said lands. However, the said I.A.No.1175 of 2017 is still pending consideration before the said civil Court and the said ad-interim injunction order is not made absolute after hearing the respondents and after conducting enquiry in the said petition, determining the rights and possession of the parties in respect of the lands in question.

7. It is not well settled law that only when there is a decree for permanent injunction and only when there is an order of temporary injunction in an interlocutory application which is made absolute after hearing both the parties, then only the Courts usually either the civil Court or the Writ Court, would grant police aid for effective implementation of the said permanent injunction decree or a temporary injunction order which is passed on merits. But when the *ex parte* ad-interim injunction is granted without hearing the respondents and when the same is not made absolute granting a temporary injunction order, till the disposal of the suit, on merits, the Courts will not usually order for grant of police aid for implementation of the

ex parte ad-interim injunction order. Since it is not an order on merits after hearing both the parties, the Courts would be very slow in granting police aid, till the possession and rights of the parties are determined after enquiry based on evidence.

8. In the instant case, the order that was passed in I.A.No.1175 of 2017 in O.S.No.76 of 2017 on the file of the learned IX Additional District and Sessions Judge, Kovvur, West Godavari District is only an ad-interim injunction order which is extended from time to time. It was not made absolute after enquiry and it was not a temporary injunction order passed, till the disposal of the suit. In the said circumstances, in view of the settled law as discussed supra, as there is scramble for possession in respect of the lands between both the parties, till the said controversy is resolved in I.A.No.1175 of 2017, no relief for grant of police aid for implementation of any such ad-interim injunction order can be granted.

9. However, as it is stated that there is a standing crop, which is now ripe for harvesting in the aforesaid lands in question, in order to protect the said standing crop and to prevent any loss to the persons, who actually raised the said crop, this Court is of the considered view that there shall be a direction to the trial Court to immediately dispose of the said I.A.No.1175 of 2017 on merits, by passing an appropriate order in the said petition according to law deciding as to who is in possession of the said property as on the date of filing the said suit. This Court is also of the considered view that there shall be a direction to both the parties to maintain *status quo* relating to the said standing crop. If necessary, learned IX Additional

District Court shall also take steps for appointment of a Receiver to protect the said crop by passing an appropriate order to that effect.

10. Therefore, in view of the aforesaid discussion, since it is found that no police aid can be granted, as there was only an ad-interim injunction order in force at present and not a temporary injunction order on merits, this Writ Petition is disposed of with a direction to the learned IX Additional District and Sessions Judge, Kovvur, West Godavari District to dispose of I.A.No.1175 of 2017 in O.S.No.76 of 2017 within fifteen (15) days from the date of receipt of copy of this order or from the date on which a copy of this order is placed before the said Court by any of the parties to the said suit, on merits, by passing an appropriate order according to law in the said petition. The trial Court shall also take necessary steps to protect the standing crop on the said lands, if necessary by appointing a Receiver to that effect. Both the parties are directed to maintain *status quo* relating to the said standing crop. No costs.

Miscellaneous Petitions, if any pending, in this Writ Petition, shall stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

Date : 21-12-2020

Note: Issue CC tomorrow

(B/o)

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