

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

WRIT PETITION No.3371 of 2023

JUDGMENT:-

1. Heard Sri M.Sree Rama Rao, learned counsel for the petitioner and Sri G.Naresh Kumar, learned counsel, representing Sri M.Manohar Reddy, learned Standing Counsel for the respondent No.3, Tadepalli Municipal Corporation.
2. Learned Government Pleader for Finance accepts notice for the respondent No.1, learned Government Pleader for Revenue accepts notice for the respondent Nos.2, 4 and 5.
3. This writ petition under Article 226 of the Constitution of India has been filed for the following relief:-

“I, therefore, humbly pray that this Hon’ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the Respondents 3 to 5 threatening to dispossess petitioner from her land in an extent of Ac.1.41 cents in R.S.No.197 of Tadepalligudem Municipality during the pendency of suit for declaration of title vide O.S.No.45 of 2022 on the file of the District and Sessions Judges Court at Eluru, West Godavari District as illegal, irregular, arbitrary, violative of provisions of settled principles of law and contrary to the orders of W.A.No.317 of 2022 on the file of the Hon’ble Court and also offends Articles 14, 21 and 300-A of Constitution of India and consequently direct the respondents not to interfere into

peaceful possession and enjoyment of the land in an extent of Ac.1.41 cents in R.S.No.197 of Tadepalligudem Municipality and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstance of the case."

4. The petitioner with respect to the land of R.S.No.197 as aforesaid to an extent of Ac.5.90 cents, initially filed W.P.No.11427 of 2020, which was disposed of by this Court in the following terms, vide Judgment dated 24.08.2021:-

"26. In view of my foregoing discussion, I find no grounds to issue Writ of Mandamus and consequently the writ petition is liable to be disposed of with a direction to the 4th respondent and his staff not to interfere with the possession and enjoyment of the petitioner in an extent of Ac.4-49 cents in S.No.197 of Tadepalligudem Village. There shall be no order as to costs."

5. As is evident W.P.No.11427 of 2020 was disposed of with direction only to an extent of Ac.4.49 cents.

6. The petitioner filed W.A.No.317 of 2022, which was disposed of by the Division Bench of this Court, on 14.06.2022 in the following terms:-

"5. Considering the submissions made by the learned counsel for the appellant, we are inclined to dispose of this appeal with an observation that if the appellant-writ petitioner approaches the 4th respondent or the competent Civil Court for redressal of her grievance in respect of the

subject land, the 4th respondent or the competent Civil Court shall decide the case of the appellant-writ petitioner on its own merits, without being influenced by the observations made by the learned single judge.”

7. Thereafter, the petitioner filed O.S.No.45 of 2022 with respect to Sy.No.197, to the extent of Ac.1.41 cents, for declaration and other reliefs in which the defendants have filed their written statement. The suit is pending.

8. Learned counsel for the petitioner submits that the application for grant of temporary injunction is also pending for consideration.

9. Respondent No.4 in the writ petition is the defendant No.2 in the suit. The other revenue official is also party in the suit.

10. In view of the aforesaid facts, this Court is not inclined to entertain the writ petition.

11. Learned counsel for the petitioner submits that the petitioner is raising grievance against the action of the respondent No.3, the Tadepalligudem Municipal Corporation as well which respondent is not party in the suit and consequently the writ petition deserves to be entertained.

12. So far as the aforesaid contention is concerned, learned counsel for the petitioner could not argue that the petitioner's grievance if any with respect to the suit property against the

respondent No.3 cannot be raised in suit by the impleadment as per law, as also in an independent suit subject to adherence of law.

13. Further, in Para 2 of the Writ Petition, the petitioner has deposed as under:-

“I humbly submit that the present writ petition is filed aggrieved by the action of the Respondents 3 to 5 threatening to dispossess me from my land in an extent of Ac. 1.41 cents in R.S.No.197 of Tadepalligudem Municipality during the pendency of suit for declaration of title vide O.S.No.45 of 2022 on the file of the District and Sessions Judge’s Court at Eluru, West Godavari District as illegal, irregular, arbitrary, violative of provisions of settled principles of Law and contrary to the orders of W.A.No.317 of 2022 on the file of the Hon’ble Court and also offends Articles 14, 21 and 300A of Constitution of India.”

14. From Para No.2 of the writ petition as also the prayer it is evident that the petitioner seeks for direction to the Respondents, during pendency of the suit before the learned Trial Court, Writ of Mandamus for such a relief, amounting to grant of temporary injunction, in the suit where temporary injunction application is pending consideration, and particularly after the orders passed in W.P.No.11427 of 2020 and W.A.No.317 of 2022 to run the parallel proceedings cannot be entertained.

15. For all the aforesaid reasons, the writ petition is dismissed.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI,J

Date: 10.02.2023
SCS

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

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