

IN THE HIGH COURT OF TELANGANA AT HYDERABAD**W.P. No. 12521 of 2020**

Between:

Uppala Krishnamurthy

... Petitioner

And

State of Telangana and others

... Respondents

JUDGMENT PRONOUNCED ON: 16.08.2023**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : yes
see the fair copy of the Judgment?

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 12521 of 2020****% 16.08.2023****Between:**

Uppala Krishnamurthy

..... Petitioner

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... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioner : Mr M.Srinivas Rao

^ Counsel for Respondent Nos.1to4: G.P. for Revenue

^Counsel for respondent No.5: Mr S.Pradeep Kumar

? Cases Referred:

HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 12521 of 2020****ORDER:**

Heard Sri M.Srinivasa Rao, the learned counsel for the Petitioner, the learned Government Pleader for Revenue appearing on behalf of respondents 1 to 4 and Sri S.Pradeep Kumar, learned counsel for respondent No.5

2. This Writ Petition is filed praying to issue a Writ of Mandamus declaring the action of the 2nd respondent in entertaining the application filed by the 5th respondent dated 13.07.2020, by converting the criminal dispute into Civil dispute against the petitioner herein in connection with the land in Sy. No. 34/1 to an extent of Ac 1.62½ cents of Venkatapuram Village and Mandal, Mulugu District and further called for the report from the 4th respondent through 3rd respondent is illegal and void and opposed to Articles 14, 19, 21 and 300 A of the Constitution of India and consequently, direct respondent Nos. 2 to 4 not to interfere with the petitioner's peaceful possession and enjoyment of the land in Sy. No. 34/1 to an extent of Ac 1.62½ cents of Venkatapuram

Village, Mandal Mulugu District without following due process of law.

3. The case of the petitioner, in brief, is as follows:

a) The land in Sy.No. 34/1 to an extent of Ac. 1.62 ½ cents of Venkatapuram Village and Mandal, Mulugu District is under the possession and enjoyment of the petitioner, who raised agricultural crops like paddy without any interference of 3rd parties and authorities. The petitioner and his elder brother Viz. Uppal Bikshapathi are joint family members and they purchased the subject land jointly by way of a settlement patta in the name of petitioner's elder brother as he was the elder member of the petitioner's family. Petitioner's elder brother sold away his share in the subject land to the petitioner by taking Rs. 1,50,000/- in the year 2007. Since then the entire property was in the name of the petitioner even in the Revenue records and pattadar passbooks were also issued in his name.

b) Respondent No.5 highhandedly interfered with the agricultural operations of the petitioner in July 2020, the 5th respondent filed a criminal complaint against the petitioner in Venkatapuram Police Station and the same was registered

under Sections 447 and 324 of IPC and later bail was also granted to the petitioner when the crime was under investigation.

c) Respondent No. 5 without having any right or title over the petitioner's land filed a complaint before Respondent No.2 on 13.07.2020, seeking police protection by converting the Criminal dispute into a civil dispute and requested for police aid. Respondent No.2 entertained the application and directed Respondent Nos. 3 and 4 to submit a report. Accordingly, Respondent No.3 took statements from the neighbours and submitted report to Respondent No.2 and Respondent No.4 highhandedly threatened the petitioner by demanding illegal gratification and based on the report dated 16.07.2020, it is suspected that Respondent No.4 is doing a favour to Respondent No.5.

d) Petitioner's brother at the instance of Respondent No.5, filed a suit against the petitioner before the Mobile Court, Bhadrachalam seeking an injunction and filed O.S.No. 97 of 2017 and also filed in I.A.No. 94 of 2017 seeking temporary injunction, which was dismissed by the Civil Court on 08.11.2017, on the ground of suppression of fact that

Respondent No.5 filed an application before Respondent No.3 for cancellation of entries in revenue records for the subject land in the name of the petitioner, which was ordered on 21.10.2019, and the said orders were not communicated to the petitioner due to various reasons and Covid-19. The petitioner is going to file revision before the Joint Collector, Mulugu against the order dated 21.10.2019, but in the mean time there is a threat from respondents 2 to 4 in connection with the subject land and hence, in order to protect the interest over the subject land, the petitioner filed the present writ petition.

4. The counter affidavit filed by Respondent No. 5, in brief, is as follows:

a) The brother of the petitioner Viz. Uppala Bikshapathi S/o. Raghavendra and husband of Respondent No. 5 is the original pattadar and possessor of the subject land and the petitioner had given a hand loan of Rs. 1,50,000/-, to his brother for medical treatment on the execution of a promissory note by the husband of Respondent No.5, who was thereafter, affected with paralysis and was confined to bed. The petitioner, considering the situation of Respondent No.5,

had taken advantage and stole the original pattadar passbook of his brother Viz. husband of Respondent No.5 and tampered with it. The petitioner and his brother did not run agricultural operations in the subject land as averred by the petitioner in the writ petition and the allegation of selling away the share of land of the petitioner's brother to the petitioner is contrary to the Regulation No.1 of 1970 Viz. the sale between non-tribe to non-tribe, if so, it must be recognized and regularized by Respondent No.2.

b) An appeal under Section 5 (b) (2) of the T.S. Rights in Land and Pattadar Pass Books Act, 1971, was filed before Respondent No.3 for eviction of the petitioner from the subject land. Respondent No.3 entertained the same and passed an order dated 21.10.2019, allowing the appeal and the mutation, entries, made in the subject land in favour of the petitioner were set-aside and further directed Respondent No.4 to issue Pattadar Pass Books and title deeds in favour of Respondent No. 5. The petitioner preferred an appeal before Respondent No.2 against the aforesaid order passed by the 3rd respondent and the same was dismissed on 18.02.2021. The petitioner, should approach the Civil Court for recovery of the amount of Rs. 1,50,000/-, but he should not claim the land of

his brother as his own. Hence, the allegation that the petitioner's brother Viz. husband of Respondent No.5 sold the subject land to the petitioner is totally false.

c) The petitioner, accompanied by his family members and also the representatives, hit Respondent No.5 on the forehead and she fell down with a bleeding injury and she was admitted in Government Hospital, Venkatapuram, and a crime under Sections 447 and 324 of IPC was registered and further the petitioner was released on bail.

d) Report of the 4th respondent to Respondent No.3 did not reflect any of the proceedings of Respondent No.2 in reference column and the petitioner failed to submit any document numbers and dates. The orders passed by Respondent No.3 allowing the petition for cancellation of mutation and entries made in the pattadar pass book issued in favour of the petitioner herein were set-aside on 21.10.2019, as such the petitioner preferred an appeal before the Revenue Tribunal, Mulugu, and the same was dismissed on 18.02.2021. Hence, the writ petition is devoid of merits and is liable to be dismissed.

PERUSED THE RECORD

5. The complaint dated 13.07.2020 addressed by the 5th respondent to the 2nd respondent - The District Collector, Mulugu, Mulugu District, reads as under:

“My husband Sri Uppala Bikshapathi S/o. Raghavendram is having patta land on his name in Survey No.34/1 to an extent of Ac.1.62 Cents situated at Nugur (G) Village. On 09.07.2020 I gone into the land and I was plowing the land by Tractor to cultivate the land, meanwhile Uppala Krishna Murthy along with his followers entered into the land and prevented us and scolded us and beat with rod on our head severely. Immediately, I injured and became unconscious. Thereafter my side persons who were available in the land namely Uppala Sai Rajendra Prasad and Rajini taken me to Government Hospital and provided treatment later filed a report before the S.H.O., Venkatapuram.

In this regard, on 07.07.2020 I have applied for issue of Pattadar Passbook before the Tahsildar as per the rules and regulations of the Government of Telangana and obtained Receipt. Xerox Copy of the same is enclosed herewith.

It is confirmed that, Uppala Krishna Murthy S/o. Raghavendram, R/o. Venkatapuram using his financial and political influence and misguiding to the Government Officials and against the Government rules and regulations trying to grab our patta land along with his followers. Due to which we are in severe fear.

It is cleared that Uppala Krishna Murthy along with his followers trying to kill us when we were cultivating our land. Due to which you may provide protection to us.

For your verification purpose we are enclosing the records which are available with us i.e. (1) Settlement Patta Case No.2963, dated 31.08.1982, (2) Village Account Patta No.63, Patta No.03, (3) Application for issue of Pattadar Passbook, (4) Xerox Copy of Proceedings of Sub Collector, Mulugu."

6. The interim orders dated 14.02.2020 passed in W.P.No.12521 of 2020, read as under:

"Notice before admission.

The learned counsel for the petitioner is permitted to take out personal notice to respondent No.5 by registered post with acknowledgment due and file proof of service in support thereof.

A perusal of the complaint filed by respondent No.5 points out to the fact that the acts alleged against the petitioner attract the provisions of the Indian Penal Code, as they are mostly criminal in nature. Respondent No.2 being a Collector, does not have any jurisdiction to enquire into the complaints, which fall under the criminal jurisdiction, and it is only the Police, who can investigate into the same, if any complaint is made.

In view of the same, there shall be an interim stay of all further proceedings in pursuance of the complaint dated 13-07-2020 filed by respondent No.5 seeking police protection against the petitioner in respect of the land admeasuring Ac.1-62 1/2 cents of Venkatapuram Village and Mandal, Mulugu District, until further orders.

Post this case on 23-09-2020.

DISCUSSION AND CONCLUSION

DISCUSSION

7. A bare perusal of the contents of the complaint dated 13.07.2020 filed by the 5th respondent seeking police protection against the petitioner in respect of the land admeasuring Ac.1.62 ½ cents of Venkatapuram Village and Mandal, Mulug District clearly indicate that the acts alleged against the petitioner attract the provisions of the Indian Penal Code as they are mostly criminal in nature, as observed earlier vide the orders of this Court dated 14.08.2020 in the present writ petition and it is only the police who can investigate into the same if any complaint is made.

8. A bare perusal of the material documents filed along with the affidavit filed by the petitioner in support of the present writ petition clearly indicate that the 5th respondent and another one Uppala Satyavathi together jointly filed a

petition before the then Sub Collector/Revenue Divisional Officer, Mulug dated 28.09.2019 on behalf of their husband Uppala Bixapathi, and requested to evict the petitioner herein alleging that the petitioner encroached the land belonging to the husband of the 5th respondent in survey No.34/1 situated at Nogur (G) Village of Venkatapuram Mandal which was mutated in favour of the petitioner herein describing the petitioner as pattadar and occupant to an extent of Ac.1.62 ½ cents in survey No.34/1 of Nogur (G) Village. The Revenue Divisional Officer, Mulug had allowed the said Appeal Petition filed by the 5th respondent and one Uppala Satyavathi under Section 5-B (2) of Telangana State Rights in Land and Pattadar Passbooks Act, 1971 (As amended by Act.No.1 of 2018, w.e.f.17.06.2017). It is also evident on perusal of material on record that the said Appeal No.E/680/2017 filed before the Appellate Authority and Revenue Divisional Officer (Mulug) by the 5th respondent and one Uppala Satyavathi against the petitioner herein had been allowed vide orders dated 21.10.2019 and the entry/mutation of the land in survey No.34/1 for an extent of Ac.1.62½ cents of Nogur (G) Village of Venkatapuram Mandal in favour of Uppala Krishnamurthi, S/o, Ragavendram i.e., the petitioner herein was set aside and

further the pattadar passbooks issued in favour of the petitioner in respect of survey No.34/1 for an extent of Ac.1.62½ cents of Nogur (G) Village are suspended and the matter is remanded back to the Tahsildar, Venkatapuram for fresh enquiry into the claim filed by the petitioner and to dispose of the same in accordance with the procedure contemplated under the ROR Act. A bare perusal of the averments made in the affidavit filed in support of the present writ petition also indicate civil cases having been filed between the parties.

9. This Court vide its order dated 14.08.2020 in the present writ petition granted interim stay of all further proceedings in pursuance of the complaint dated 13.07.2020 filed by the 5th respondent seeking police protection against the petitioner in respect of the land admeasuring Ac.1.62½ cents of Venkatapuram Village and Mandal, Mulug District. In view of the fact that the 5th respondent has already availed the remedy by filing appeal under Section 5-B (2) of Telangana State Rights in Land and Pattadar Pass Books Act, 1971 and even obtained relief in her favour on alleged interference of the petitioner herein, the 5th respondent

further approached District Collector, Mulug vide her complaint dated 13.07.2020 seeking police protection.

CONCLUSION

10. This Court opines that the 2nd respondent cannot entertain the application filed by the 5th respondent dated 13.07.2020 and convert the criminal dispute into civil dispute against the petitioner herein in connection with land in survey No.34/1 to an extent of Ac.1.62 ½ cents of Venkatapuram Village and Mandal, Mulug District. It is also evident on perusal of the proceedings dated 16.07.2020 vide Rc.No.B/245/2020 of the Tahsildar, Venkatapuram that due to pendency of the land dispute case in respect of the subject land between the parties on the file of Revenue Divisional Officer, Mulug No.E/680/2017 the patta has not been issued to anybody and the same is kept pending. It is also borne on record on perusal of proceedings Rc.No.B/262/2020 dated 22.07.2020 of the Tahsildar, Venkatapuram, that the Pahani Record is registered in the name of the petitioner herein during the period 2008-2009 to 2015-2016 and the manual Pattadar Passbook is also issued to the petitioner and further that the Sub Divisional Magistrate and Special Assistant Agent to Government, Mobile Court, Badrachalam, has passed the

order in I.A.No.94 of 2017 in O.S.No.97 of 2017 dated 08.11.2018 in favour of the petitioner herein and the Court of Revenue Divisional Officer, Mulug has remanded the case to Tahsildar, Venkatapuram by directing to conduct afresh enquiry in Appeal No.E/680/2017 dated 21.10.2019 and further dispute arose between the parties again and a case was registered in Venkatapuram Police Station against the petitioner herein.

11. In view of the fact that Late Uppala Bixapathi, husband of the 5th respondent herein had filed a suit against the petitioner before the Mobile Court, Badrachalam seeking to grant injunction by way of filing O.S.No.97 of 2017 and seeking temporary injunction in I.A.No.94 of 2017 and the said temporary injunction application was dismissed by the Civil Court on 08.11.2017 and the said fact evidences that the 5th respondent and her family members are not in possession of the subject properly in question.

12. Taking into consideration of the above referred facts and circumstances, the writ petition is allowed declaring the action of the 2nd respondent in entertaining the application filed by the 5th respondent

dated 13.07.2020 by converting the criminal dispute into civil dispute against the petitioner herein in connection with land in survey No.34/1 to an extent of Ac.1.62 ½ cents of Venkatapuram Village and Mandal, Mulug District and further calling for a report from the 4th respondent through the 3rd respondent as illegal, unwarranted and uncalled for as per the discussion and reasoning indicated above at paras 9, 10, 11. The respondent Nos. 2 to 4 are further directed not to interfere with petitioner's peaceful possession and enjoyment of the land in survey No.34/1 to an extent of Ac.1-62 ½ cents of Venkatapuram Village and Mandal, Mulug District without following due process of law. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Date: 16.08.2023

**Note: L.R.Copy to be marked.
b/o
Kvrm/Yvkr**