

HIGH COURT FOR THE STATE OF TELANGANA
WRIT PETITION No.271 of 2020 and 32891 OF 2022

W.P.No.271 of 2020:

Gadeela Srinivas Reddy, S/o.Mohan Reddy
Aged: 44 years, Occ: Private Employee,
R/o.H.No.1-44, Gundlapochampally Village,
Medchal Mandal and District and others.

....Petitioner

VERSUS

The State of Telangana,
Represented by its Principal Secretary,
Home Department, Secretariat, Hyderabad and others.

... Respondent

W.P.No.32891 of 2022:

Gummakonda Jagan Mohan Reddy,
S/o.Late G.Chandra Reddy,
Aged about 42 years, Occ:Agriculture,
Rajendra Nagar Mandal, Ranga Reddy District.

....Petitioner

VERSUS

The State of Telangana,
Represented by its Principal Secretary,
Home Department, Secretariat, Hyderabad and others.

... Respondent

DATE OF JUDGMENT PRONOUNCED: 30.06.2023

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

LALITHA KANNEGANTI, J

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

+ WRIT PETITION Nos.271 of 2020 and 32891 OF 2022

% Dated 30.06.2023

in W.P.No.271 of 2020:

Gadeela Srinivas Reddy, S/o.Mohan Reddy
Aged: 44 years, Occ: Private Employee,
R/o.H.No.1-44, Gundlapochampally Village,
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... Respondent

! Counsel for Petitioner : Sri Vivek Jain

^ Counsel for Respondents : GP for Home
for respondent Nos.1 to 4

Sri N Naveen Kumar
for respondent No.5

in W.P.No.32891 of 2022:

Gummakonda Jagan Mohan Reddy,
S/o.Late G.Chandra Reddy,
Aged about 42 years, Occ:Agriculture,
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 ... Respondent

! Counsel for Petitioner : Sri N.Naveen Kumar

^ Counsel for Respondents : GP for Home
 for respondent Nos.1 to 5

Sri N.Manohar
 for respondent Nos.8 and 9

Sri Jithender Rao Veeramalla
 for respondent No.7

< GIST:

> HEAD NOTE:

? CITATION:

(2000) 2 ALT 606
 AIR 1971 AP 53
 AIR 1982 AP 394
 (2023) 1 ALT 765
 AIR 1960 SC 137

THE HON'BLE SMT JUSTICE LALITHA KANNEGANTI**WRIT PETITION Nos.271 of 2020 and 32891 of 2022****COMMON ORDER:**

W.P.No.271 of 2020 is filed by defendant Nos.2 and 3 in O.S.No.11 of 2014, to issue Writ of Mandamus to declare the action of the respondents, more particularly, respondent No.4 in trying to demolish the structures erected by petitioners and dispossessing them in respect of land admeasuring Ac. 0-11 guntas each in Sy.No.435/2 situated at Gundlapochampally Village, Medchal Malkajgiri District as illegal, arbitrary and violation of Right to Property under the Article 300 of the Constitution of India and consequently direct the respondent Nos. 2 to 5 not to demolish the structures in land admeasuring Ac 0-11 guntas each in Sy.No.435/2 situated at Gundlapochampally Village, Medchal Malkajgiri District.

2. W.P.No.32891 of 2022 is filed by the plaintiff in O.S.No.11 of 2014, to issue Writ of Mandamus to declare the action of the official respondents, more particularly, respondent Nos.5 to 7 in involving the civil disputes, thereby, threatening the petitioner to settle the matter with the respondent Nos.8 and 9 in respect of property covered under the judgment and decree dated 29.10.2019 in O.S.No.11 of 2014 on the file of the Principal Junior Civil Judge, Ranga Reddy District at

Medchal, as it being illegal, arbitrary, unjust and in violation of principles of natural justice and consequently, direct respondent No.2 to take stringent action against respondent Nos.5 to 7 for committing constant interference in civil disputes by threatening the petitioner to settle the matter with respondent Nos.8 and 9, further, to direct respondent No.5 to provide police protection to the extent of land admeasuring Ac.1.00 guntas in Sy.No.435/1 Part, situated at Gundlapochampally Village, Medchal Mandal, Medchal-Malkajgiri District.

3. Before going into the respective submissions made by the counsel on either side, this Court deems it appropriate to dwell in to the few facts, which are necessary for adjudication of these matters.

4. The petitioner in W.P.No.32891 of 2022 has filed a suit in O.S.No.11 of 2014 seeking injunction restraining the defendants from interfering with the property admeasuring Ac.1.00guntas in Survey No.435/1 part situated at Gundlapochampally Village, Medchal Mandal, Ranga Reddy District. Along with the said suit he has also filed I.A.No.47 of 2014 seeking interim injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the petitioner/plaintiff over the schedule mentioned property and the Court below vide order dated 22.04.2014 has granted

ad-interim injunction. Aggrieved by the said injunction order, the defendants in the above referred suit have filed an appeal vide C.M.A.No.46 of 2014 and the same was dismissed by order dated 03.01.2017. Challenging the same, the defendants have preferred a revision vide C.R.P.No.1614 of 2018 and the same was also dismissed on 27.04.2018. In spite of the same, when the defendants were interfering with his peaceful possession over the schedule mentioned property. The petitioner herein, who is the plaintiff in the above referred suit, has filed an application i.e., I.A.No.685 of 2017 seeking police protection. Thereupon, the Court below by Order dated 08.03.2018, has directed respondent No.5 herein to provide police protection to the schedule mentioned property. Thereafter, the above referred suit was decreed on 29.10.2019 in favour of the petitioner. When respondent No.5 failed to grant police protection, the petitioner came up before this Court by filing W.P.No.11184 of 2019 wherein this Court by Order dated 25.06.2019 in I.A.No.1 of 2019 has passed an interim order observing that respondent No.3 therein is bound to provide police protection as ordered by the Court below in I.A.No.685 of 2017 and accordingly, respondent No.3 therein was directed to provide police protection.

5. Even after the interim orders passed by this Court, when police protection was not provided by the police, the petitioner/plaintiff

has filed a contempt case i.e., C.C.No.1148 of 2019 and the same is pending before this Court. Thereafter, defendant Nos.2 and 3 in the above referred suit, who are respondent Nos.8 and 9 herein, have filed W.P.No.271 of 2020 questioning the action of the police in dispossessing them from the land admeasuring Ac.0-11 guntas each in Survey No.435/2, situated at Gundlapochampally Village, Medchal Mandal, Ranga Reddy District. Before filing of W.P.No.271 of 2020, they have filed a suit ie. O.S.No.81 of 2018 and also filed I.A.No.377 of 2018 seeking interim injunction in respect of the very same property, where they have suffered decree. Initially, the Court below has granted interim injunction vide I.A.No.377 of 2018 and thereafter, vacated the said injunction order by dismissing the said I.A.No.377 of 2018 by observing that the suit was filed on suppression and misrepresentation of facts. The learned counsel for the respondent submits that the subject property in both the suits is not one and the same.

6. In W.P.No.271 of 2020, interim order was passed on 07.01.2020 in I.A.No.1 of 2020, which reads as under:

“This application is filed seeking a direction to restrain the official respondents not to demolish structures in land admeasuring Ac.0.11 gts in Sy.No.435/2 situated at Gundlapochampally village, Medchal, Malkajgiri District.

Learned counsel for the petitioners submits that this Court in W.P.No.11184 of 2019 directed the official respondents therein to extend police protection for implementing the schedule property as mentioned in I.A.No.47 of 2014.

Learned counsel for the petitioners further submits that on the basis of the above said order, the police authorities are now taking steps to demolish the small structures viz., the shop which is put up by the petitioners in the land, under the guise of the implementation of the interlocutory order on the strength of the order of this Court, granting police protection to the petitioners therein.

Learned Counsel for the petitioners submits that the injunction granted by the trial Court was in respect of open land, and the structure which is subsisting on the said land cannot be demolished and the police authorities ought to have brought the same to the notice of the trial Court.

On the other hand, learned Assistant Government Pleader for Home submits that the police are only extending police protection for implementation of the order in I.A.No.47 of 2014 and the authorities are not taking any steps on their own to demolish the said shop.

Having regard to the said submission made, the official respondents are directed not to resort any demolition in the course of implementation of the order in I.A.No.47 of 2014. Therefore, this application is ordered.”

7. The plaintiff, who is the writ petitioner in W.P.No.11184 of 2019 has also filed W.P.No.32891 of 2022, questioning the illegal action of the respondents, particularly, respondent Nos.5 to 7 in W.P.No.32891 of 2022. The petitioner has made respondent Nos.6 and 7, the police officers as parties in their official capacity.

8. It is stated that respondent No.6 at the behest of respondent No.7, who is related to defendant Nos.2 and 3 in the suit and the unofficial respondent herein, abusing his official capacity, is

continuously threatening the petitioner to settle the matter with unofficial respondents in the writ petition. Having questioned their high handed action, the petitioner/plaintiff sought direction to respondent police to provide police protection to the extent of land admeasuring Ac.1.0 guntas in Survey No.435/1 part situated at Gundlapochampally Village, Medchal Mandal, Ranga Reddy District.

9. This Court has heard the learned counsel for the petitioners in both writ petitions, learned counsel appearing for the unofficial respondent Nos.8 and 9 as well as respondent No.7 in W.P.No.32891j of 2022 and learned Government Pleader for Home.

10. The learned counsel appearing for the petitioner in W.P.No.32891 of 2022, who is the plaintiff in O.S.No.11 of 2014 submits that though the Court below has granted interim injunction in favour of him, there was illegal interference on the part of the defendants. Therefore, the petitioner/plaintiff has approached this Court and this Court has directed the respondent police to provide police protection as per the order in I.A.No.47 of 2014. In spite of the same, the respondent Nos.8 and 9 in high handed manner interfering with his possession and respondent police have not provided any protection. It is submitted that even after the suit was decreed on 29.10.2019 still at the behest of unofficial respondent Nos. 8 and 9,

respondent No.7 prevailed on respondent No.6 and the petitioner/plaintiff is deprived of enjoying the fruits of the decree.

11. Learned counsel further submits that having suffered decree and having failed to file an appeal, defendants in O.S.No.11 of 2014, have filed a suit in O.S.No.81 of 2018 wherein initially, though the Court below has granted injunction, thereafter the Court below has made several observations with regard to the documents, title of the plaintiffs in O.S.No.81 of 2018, who are respondent Nos.8 and 9 in W.P.No.32891 of 2022, the conduct of the parties and vacated the said injunction order. However, the same has not been questioned by the plaintiffs in O.S.No.81 of 2018. He submits that respondents Nos.8 and 9 have no respect to the rule of law. Being a party to the suit, having suffered a decree and also having the I.A. for injunction filed by them got dismissed, still they are continuously interfering with possession of the petitioner.

12. It is submitted that in these circumstances as the petitioner in W.P.No.32891 of 2022 has already made a representation to the respondents to grant police protection, the police ought to have granted protection but for the best reasons known to them, the respondent police are not discharging their duties. It is submitted that as of now, there are no orders restraining the respondents from taking

any action. It is submitted that while exercising the jurisdiction under Article 226 of the Constitution of India, this Court has got ample powers to grant police protection.

13. He has relied upon the order of the Hon'ble High Court of Andhra Pradesh at Amaravati in case of **K.Murali Krishna Vs. The State of Andhra Pradesh (W.P.No. 10178 of 2022)**, wherein, at paragraph No.9, it has been held as follows:

“Thus, the above jurimetrical jurisprudence gives a clear connotation that the Civil Court under Section 151 CPC and High Courts under Article 226 of the Constitution of India can in suitable cases direct the police to extend protection for implementation of injunction decree or order. The decision in Polavarapu Nagamani MANU/AP/0710/2009 : 2010 (6) ALT 92 (supra) cited by the learned AGP for Home is slightly different. It was observed that when a party who obtained injunction alleges that the injunction order has been violated, an application seeking police protection would not lie and the aggrieved party has to necessarily file execution petition under Order XXI Rule 32 CPC or an application under Order XXXIX Rule 2A CPC. However, it should be noted that in Gampala Anthaiah v. Kasarla Venkat Reddy MANU/AP/3533/2013 : 2014 (2) ALT 661, a learned single Judge of the High Court of A.P. relying upon the decision of Supreme Court in P.R. Murlidharan's case MANU/SC/1380/2006 : (2006) 4 SCC 501 (supra) has observed that the view expressed in Polavarapu Nagamani MANU/AP/0710/2009 : 2010 (6) ALT 92 (supra), insofar as it held that an application for police protection is not maintainable if there is a violation of an injunction order passed in a suit has to be held to be per incuriam. In that view, the argument of the learned Assistant Government Pleader for Home that the party has to approach the Civil Court for execution and writ petition is not maintainable cannot be countenanced.”

14. He has relied upon the judgment of the High Court of Andhra Pradesh at Hyderabad in the case of **P.Shanker Rao Vs. B.Susheela**¹, wherein, at paragraph No.3, it has been held as follows:

“3. The observations, in my considered view should be confined to the facts of that particular case. In that case, the defendant sought police protection on the ground that the plaintiff was interfering with his possession despite the fact that the temporary injunction granted earlier in favour of the plaintiff was vacated. Thus, it is not a case where the order to extend police aid was granted in order to ensure compliance with an order of injunction in force pending the suit. The mere fact that the action could be taken against either party for flouting the injunction under Order XXXIX Rule 2-A or under the Contempt of Courts Act does not come in the way of the Court taking all necessary steps for ensuring obedience of the injunction order. The Court need not wait till the injunction is breached. In a fit case, the Court can undoubtedly direct police aid as a preventive measure. This power though not expressly conferred, is a power incidental or ancillary to the exercise of the power to grant injunction pending the suit. With great respect, I am not in a position to record my concurrence with the broad observations made by the learned Judge that the civil Court cannot direct police aid for execution of its order - interlocutory or final and that the party should only have recourse to the procedure laid down under Order XXI, Rule 32 or the Contempt of Courts Act. The observations are in the nature of obiter and therefore not binding on me. It is therefore unnecessary to refer the matter to the Division Bench, more so in view of the decision of this Court relied upon by the trial Court. I would however like to point out that the police aid should not be granted for mere asking. The Court has to be satisfied, prima facie, that there is an imminent threat of violation of interim order, if police does not intervene and that there is no other way of ensuring effective compliance. If however an alternative could be found such as, deploying an Officer of the Court to oversee the

¹ (2000) 2 ALT 606

implementation of the order, the Court can avoid granting order for police aid.”

15. He has relied upon another judgment of the Division Bench of the combined High Court for the State of Telangana and for the State of Andhra Pradesh in **Kotak Mahindra Bank Limited Vs. The Station House Officer** (W.P.Nos.10602 and 17935 of 2015), wherein at paragraph No.46, it has been held as follows:

“46. Whatever be the view, regarding the power of the Civil Court to direct police officers to render assistance to enforce its orders, the High Court, undoubtedly, has the power to issue such directions. Article 226 is a part of the basic structure of the Constitution of India (L. Chandra Kumar v. Union of India MANU/SC/0261/1997 : AIR 1997 SC 1125), and the power conferred on the High Court thereunder cannot be negated or circumscribed even by an amendment to the Constitution, much less by legislation plenary or subordinate. Article 226 of the Constitution confers on the High Court wide powers in issuing writs for the enforcement of any of the rights conferred by Part III of the Constitution, and for any other purpose. Under the first part of Article 226 of the Constitution, a writ would be issued only after holding that the aggrieved party has a fundamental right, and that it has been infringed. Under the second part, a writ may be issued only after finding that the aggrieved party has a legal right, and that such a right has been infringed. (Rashid, K.S. v. Income-tax Investigation Commissioner MANU/SC/0123/1954 : AIR 1954 SC 207; State of Orissa v. Rungta MANU/SC/0012/1952 : AIR 1952 SC 12; Calcutta Gas Co. v. State of West Bengal MANU/SC/0063/1962 : AIR 1962 SC 1044; K. Venkatachalam v. A.Swamickan MANU/SC/0298/1999 : (1999) 4 SCC 526; B.A. Bhavani v. LAO, Yeluru Reservoir Project, Peddapuram MANU/AP/0109/2005 : (2005) 3 ALD 233 (LB).”

16. He has relied upon the judgment of the High Court of Andhra Pradesh, Hyderabad, in **Rayapati Audemma Vs. Pothineni Narasimham**², wherein, at paragraph No.9, it has been held as follows:

“9. If the police authorities are under a legal duty to enforce the law and the Public or the citizens are entitled to seek directions under Article 226 of the Constitution for discharge of such duties by the Police Authorities we feel that the civil courts can also give appropriate directions under Section 151 Civil P.C to render aid to the aggrieved parties for the due and proper implementation of the orders of Court. It cannot be said that in such a case the exercise of the inherent power under Section 151, Civil P.C. is devoid of jurisdiction. There is no express provision in the Code prohibiting the exercise of such a power and the Court can give appropriate directions at the instance of aggrieved parties to the police authorities to render its aid for enforcement of the Court’s order in a lawful manner.”

17. Further, he has relied upon the Judgment of the High Court of Andhra Pradesh in the case of **Satyanarayana Tiwari Vs. Station House Officer, Santhoshnagar Police Station, Hyderabad**³, at paragraph Nos.3 and 8, it has been held as follows:

“3. The legal position as observed by the learned single Judge does not admit of any doubt that the orders of the Civil Court prevail on the question of possession. Any anterior or subsequent enquiry and finding of the police or any other authority cannot nullify the finding of the civil court especially when that finding has been upheld by this Court by dismissing the Civil Revision Petition. The only authority that can vary that finding is the Supreme Court. None of the parties in this case have moved the Supreme

² AIR 1971 AP 53

³ AIR 1982 AP 394

Court questioning the dismissal of the Civil Revision Petition. That being the position, no authority in the State, revenue or police, can ignore the finding of the Civil Court of refuse to take steps to see that the order of the Civil Court is implemented and the party, in whose favour there is the order of the Civil Court, gets all help to maintain his possession. It is by that method that the police have to maintain the law and order and not allow the other party to contravene the injunction order and create a law and order problem.

8. *In Satyanarayan v. Mallikarjun (AIR 1960 S.C. 137) the Supreme Court reiterated this principle and went a step further that for doing justice between the parties, the High Court has absolute jurisdiction to issue such directions and orders as it may deem fit to do justice between the parties and enforce the law of the land. The only limitations on the wide powers conferred on the High Court and exercisable by it in the matter of issuing writs are (1) that the power is to be exercised throughout the territories in relation to which it exercises jurisdiction and (2) that the person or authority to whom the writ is issued, is within the territories over which the respective High Courts exercise jurisdiction. None of these limitations come in the way of the High Court issuing appropriate directions to further secure the right determined and recognised by the Civil Court. The power which a Civil Court has under Section 151 C. P. C., the High Court has in much larger measure under Article 226 of the Constitution. We have, therefore, no hesitation in concluding that this court has ample jurisdiction, to issue a writ or direction to all the authorities including the police within the State to enforce the orders of the civil Court as confirmed by the High Court in a Civil Revision Petition and maintain the Rule of law. The police authorities are therefore bound to give all assistance to the appellant to enforce and see that the orders of this Court as confirmed in C.R.P.No.3258/81 are implemented and any enquiry or report of any other authority, revenue or police, cannot be put as an excuse for not rendering the required help to the appellant to maintain his possession. This order will be subject only to the final orders of the Civil Court in O.S.3770 of 80."*

18. Relying upon these judgments, learned counsel for the petitioner submits that it is fit case where this Court has to give a positive direction to the respondent police to grant police protection to the land admeasuring Ac.1-00 guntas in Survey No.435/1 Part, situated at Gundlapochampally Village, Medchal Mandal, Medchal-Malkajgiri District. He submits that having suffered judgment and decree and being unsuccessful before several Forums, the unofficial respondents are, in one way or the other, trying to interfere with the possession of the petitioner/plaintiff. It is stated that he has no other effective alternative remedy except to approach this Court. He submits that the conduct of the defendants/respondents herein is nothing but mockery of the justice delivery system. Hence, he submits that a positive direction may be granted to the police for grant of police protection in the light of the judgment and decree passed in O.S.No.11 of 2014, dated 29.10.2019.

19. Learned counsel appearing for the writ petitioners in W.P.No.271 of 2020/unofficial respondents in W.P.No.32891 of 2022 submits that there is a small room in the schedule property, they have obtained permission in the year 2013 and ever since they have been in possession of the property. As per the judgment and decree it is a open land. When there is a Tiffin Center and a shop in the schedule mentioned property, at the request of the petitioner/plaintiff in

O.S.No.11 of 2014 the respondent police high handedly tried to demolish the structure, therefore, defendant Nos.2 and 3 in O.S.No.11 of 2014, have approached this Court and this Court has granted protection from the high-handed action of the plaintiff in O.S.No.11 of 2014 and respondent police in W.P.No.32891 of 2022 by granting an interim order. He submits that if the petitioner is aggrieved by any of the interference by the unofficial respondents/defendants, his remedy is to file execution petition subsequent to the judgment and decree passed in O.S.No.11 of 2014 and seek appropriate orders. Apart from that, it is submitted that the application seeking police protection before this Court is not maintainable.

20. Learned counsel in support of his contentions, has relied upon the order of the Hon'ble Division Bench of this Court in ***Mudraboian Odhelu Vs. The State of Telangana (Writ Appeal No.187 of 2023)***, wherein, this Court has observed at paragraph Nos.13, 15, 16 and 17 as follows:

“13. In the instant case, what appellants had sought for before the learned Single Judge was execution of the injunction order. A writ proceeding cannot be converted into an execution proceeding. If the appellants feel that respondent No.6 is obstructing them from enjoying the fruits of the injunction order or if there is any disobedience to or breach of the injunction order, then the remedy of the appellants would be to invoke the provisions of Rule 2A of Order XXXIX of the Code of Civil Procedure, 1908 (CPC).

15. From the above, it is evident that if there is any disobedience to an order of injunction made under Rule 1 or Rule 2 of Order XXXIX CPC or

breach of any of the terms on which the injunction was granted or the order made, the Court granting injunction or any court to which the suit or proceeding is transferred may order the property of the person guilty of such disobedience or breach to be attached and may also order such person to be detained in civil prison for a term not exceeding three months unless in the meantime, the Court directs his release. Therefore, Rule 2A of Order XXXIX CPC provides for an adequate and efficacious remedy to a person who is aggrieved by disobedience to or breach of an injunction order granted in his favour.

16. That being so, we are of the view that petitions filed under Article 226 of the Constitution of India seeking police aid to enforce or implement an order of injunction or to restrain persons from interfering with the order of injunction should not be ordinarily entertained unless an element of injury to the public or infraction of statute is made out. Otherwise, it would amount to entering into an arena of private dispute(s).

17. Accordingly, granting liberty to the appellants to avail their remedy under Order XXXIX Rule 2A CPC, the writ appeal is dismissed. No costs.”

21. Further, he has also relied upon the judgment of the Hon’ble Division Bench of this Court in ***Kabbakula Padma Vs. State of Telangana***⁴ wherein, at paragraph Nos.6, 7, 8 and 9 it has been held as follows:

“6. We concur with the view taken by the learned Single Judge. Availing the assistance of the police or seeking police protection for enforcement of injunction order without approaching the civil Court granting the injunction order is not provided under the Code of Civil Procedure, 1908 (CPC). In fact, such shortcut method is not to be encouraged by passing the procedure under CPC. Order XXXIX Rule 2A of CPC deals with consequence of disobedience or breach of injunction. Sub-rule (1) thereof says that in case of disobedience of any injunction granted under Rules 1 and 2 or breach of any of the terms of injunction, the Court granting injunction may order the property of the person guilty of such disobedience or breach to be attached and may also order such person to be detained in the civil prison for a term not exceeding three months. Sub-rule (2) clarifies that such attachment shall not remain in force for more than one year. However, if the disobedience or breach continues, the

⁴ (2023) 1 ALT 765

property attached may be sold and out of the proceeds, the Court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto. Thus, CPC provides for adequate remedy to a person who is aggrieved by disobedience or breach of an order of injunction.

7. Therefore, seeking police protection or police aid to enforce an order of injunction is not contemplated under the law.

8. That being the position, we are of the view that such writ petitions seeking direction to provide police protection in furtherance of injunction order should not be ordinarily entertained.

9. In view of the above, the writ appeal is dismissed.”

22. He further relied upon another judgment of the Hon’ble Division Bench of this Court in ***Sri Pochampally Muralidhar Rao Vs. Sri Rapolu Mahesh Kumar (W.A.No.47 of 2021)***, wherein, this Court has taken a similar view that the appropriate legal recourse is provided under order XXI of the CPC for execution of the judgment and decree and they cannot knock the doors of the High Court and accordingly set aside the order passed by the learned Single Judge of this Court with liberty to seek execution of the judgment and decree, dated 26.07.2018.

23. Relying upon these judgments, he submits that the petitioner/plaintiff cannot maintain the writ petition viz., W.P.No.32891 of 2022 filed before this Court seeking police protection and his remedy is elsewhere. He submits that against the judgment and decree passed in O.S.No.11 of 2014, dated 29.10.2019, defendants have filed an appeal i.e., ASSR.No.730 of 2022 with a delay, which is posted to 13.09.2023. He submits that aggrieved by

the orders passed in I.A.No.377 of 2018 in O.S.No.81 of 2018, they have preferred C.M.A and the said C.M.A is pending consideration before the Court. He submits that the respondent police, at the behest of the petitioner/plaintiff in W.P.No.32891 of 2022, are interfering with their possession and therefore, the petitioner/plaintiff is not entitled for any relief from this Court and he has to take appropriate remedy.

24. Heard the learned counsel appearing on either side and perused the material placed on record.

25. Undisputed facts in this case are that the petitioner in W.P.No.32891 of 2022, has filed a suit in O.S.No.11 of 2014 for injunction in respect of the land admeasuring Ac.1-0 guntas in Survey No.435/1 part situated at Gundlapochampally Village, Medchal Mandal, Ranga Reddy District, whereas the respondent Nos.8 and 9 in W.P.No.32891 of 2022/petitioners in W.P.No.270 of 2020 have filed a suit in O.S.No.81 of 2018, which was in respect of Ac.0-11 guntas, each put together 22 guntas.

26. The case of the plaintiff and defendant in both the suits viz. O.S.No.11 of 2011 and O.S.No.81 of 2018 is one and the same. The plaintiff in O.S.No. 81 of 2018 and the defendant in O.S.No. 11 of 2011 had taken the same stand. In O.S.No.11 of 2014, there is an order for police protection in favour of the plaintiff and thereafter, the said suit

viz., O.S.No.11 of 2014 was also decreed on 29.10.2019. Though it is stated by the unofficial respondents that they have filed O.S.No.81 of 2018 and subsequent C.M.A., which is pending, so far no orders are placed before the Court to show that the competent Court has passed orders in the said pending application. Now, as per the proceedings and as per the material placed before this Court, the fact remains that there is a decree of injunction in favour of the plaintiff and against the defendants/unofficial respondents. In a subsequent suit, when an interim injunction was granted, defendants in O.S.No. 81 of 2018 who are the plaintiffs in the other suit have filed a Petition for vacating the injunction granted in favour of the petitioner/plaintiff. The Court below, in detail, considered and discussed about the injunction that was granted and at paragraph No.4 of its judgment has framed the issues for determination as to whether the petitioner/plaintiff is entitled for temporary injunction as prayed and at paragraph No.7 has observed as follows:

“7.Issue No.1 to 3:

(a) This is a suit for perpetual injunction filed by the plaintiff by submitting that he is the owner, he is in possession and enjoyment of the property and the suit schedule property is an agricultural land which is acquired from his father-in-law by name Gadila Janga Reddy by way of Gift settlement deed bearing document No. 4013/2002 dt. 23-05-2002, later he approached the revenue authorities and got mutated his name in revenue records as pattadar and possessor to an extent of Ac.1-00 gunta in Sy.No.435/1 Part, since then he is in possession and enjoyment of the

property and also obtained permission to construct the compound wall from Gram Panchayat, Gundlapochampally Village on 31-12-2013, therefore since then the plaintiff is in possession and enjoyment of the property but the defendants who are noway concerned with the suit schedule property are interfering, therefore he approached the police and lodged complaint but the police did not take any action, so that he filed the suit.

(b). On the other hand, the defendants contending that the defendant No.1 was owner to an extent of Ac.1-35 guntas which is an ancestral property, out of that he executed sale deed in favour of Smt.Nagelli Shashi Rekha in the year of 1991 to an extent of Ac.1-13 guntas through the registered sale deed and the remaining property of Ac.0-22 guntas was gifted to his two sons i.e. defendant No.2 and 3, each to an extent of Ac.0-11 guntas through the registered gift deeds in the year of 2013, then the defendant No.3 constructed ACC roof and compound wall as per the permission granted by the Gram Panchayat, now he is in possession and enjoyment of the property, therefore the plaintiff is noway concerned to the suit property claiming by him, hence requesting to dismiss the suit.

(c). As per the averments of the plaint and written statement and also evidence of both sides, admittedly the original owner of the property was one Laxma Reddy who got the land to an extent of Ac.2-35 guntas in Sy.No.435 and after his death, partition was taken place on 10-09-1981 between his sons Gadila Janga Reddy and Gadila Mohan Reddy who is defendant No.1 herein and as per the partition the suit Sy.No.435 is to an extent of Ac.2-35 guntas, Gadila Janga Reddy who is the donor of the plaintiff got the share of Ac.1-00 guntas, Gadila Mohan Reddy who is defendant No.1 herein got the share of Ac.1-35 guntas in suit survey number, therefore, admittedly the partition was taken place in the year of 1981 and the donor of the plaintiff and defendant No.1 got acquired the shares of Ac.1-00 guntas and Ac.1-35 guntas respectively total Ac.2-35 guntas in Sy.No.435. The contention of the plaintiff is that the donor is none other than his father-in-law who executed gift deed in his favour in the year of 2002 for his entire share within specific boundaries, so that

since from the date of execution of the gift deed he is in possession and enjoyment of the property and the said suit survey number is divided as 435/1 and 2, 435/1 belongs to the plaintiff's donor and 435/2 is belongs to defendant No.1 and the further contention of the plaintiff is that after execution of the gift deed under Ex.A1 in the year of 2002, his name was mutated in revenue records as per the proceedings and later pattadar passbook and title deed were issued under Ex.A2 and Ex.A3 and his name was incorporated in revenue records as pattadar and possessor since 2002 till today, therefore the plaintiff contending that he is in possession and enjoyment of the property without interruption from anybody but the defendants in the year of 2013 created troubles, therefore he approached the police and lodged complaint, there are several criminal cases are pending but even then the defendants are not stopping their illegal interference, therefore he filed this suit.

(d). To prove the version of the plaintiff, the plaintiff is examined as PW1, apart from his evidence marked Ex.A1 to Ex.A16. Ex.A1 is the Gift Settlement Deed bearing document No. 4013/2002 dt. 23-05-2002, it is executed by Gadila Janga Reddy who is none other than the brother of the defendant No.1 and father-in-law of plaintiff in favour of the plaintiff. As per the contents of this document, the donor i.e. Gadila Janga Reddy acquired the property by way of pattadar pass book and title deed and as per the schedule of boundaries mentioned in this document at page No.7 towards North: Agricultural land belongs to A.Krishna Reddy and other, South: Passage/Cart track, East: Road leading from Gundlapochampally to Apparel park and West: Agricultural land of Malla Reddy, therefore the plaintiff got acquired the property through Ex.A1 within the above said specific boundaries from his donor and admittedly the donor has acquired the property from his father Laxman Reddy through partition deed dated 10-09-1981 and in that partition, the defendant No.1 also acquired the property to an extent of Ac.1-35 guntas, whereas the donor under Ex.A1 acquired Ac.1-00 guntas in suit survey number. Ex.A2 is the pattadar pass book and Ex.A3 is the title deed of the donee under Ex.A1 by name G. Jagan Mohan Reddy. As per these pattadar pass book and title deeds in Sy.No.435, he has an extent of Ac. 1-00 guntas vide proceedings No.

B/14987/2002 dt.28-12-2002. Ex.A4 is the pahani for the year 2002-03 and Ex.A5 is the pahani for the year 2005-06. Ex.A4 clearly shows that Sy.No. 435/AA total extent of Ac.2-35 guntas reflecting on the name of the donor of the plaintiff under Ex.A1 by name G. Janga Reddy, S/o.Laxma Reddy to an extent of Ac.1-00 guntas and on the name of Gadila Mohan Reddy, S/o.Laxma Reddy to an extent of Ac.1-35 guntas. Ex.A5 goes to show that an extent of Ac.1-00 guntas in Sy.No.435/A is standing on the name of G.Jaganmohan Reddy who is donee under Ex.A1 and as Possessor and owner. Ex.A6 is the proceedings dated 28-12-2002 is also reflecting the name of the plaintiff for an extent of Ac.1-00 guntas. Ex.A7 is the Partition Deed dated 10-09-1981, it is also clearly showing that the property in Sy.No.435 was partitioned between the donor of the plaintiff and defendant No.1 and they got shared to an extent of Ac.1-00 guntas and Ac.1-35 guntas respectively. Ex.A8 is the permission issued by the Gram Panchayat dated 31-12-2013 on the name of the plaintiff for construction of compound wall, it is also having plan under Ex.A9 but the defendants contending that as per this plan there is no boundary or the part of the suit survey number at any side, whey because the defendants contending that if the Sy.No.435 is divided between the donor under Ex.A1 and the defendant No.1, there should be the land of the defendants at any one of the boundaries, so further submitting that in this layout the boundary at western side is not tallying with the schedule of property mentioned in plaint and also Ex.A1 Gift Settlement Deed, therefore the defendants contending that these are created documents for the purpose of filing of the suit but when we consider the plan map, at western side boundary it is mentioned as land of G.Mohan Reddy/ defendant No.1 in Sy.No.435/2, therefore it is clear that the defendant No.1 land is showing at western side boundary in Sy.No.435/2. Therefore how the defendant can take such plea that the plan is not showing atleast one of the boundaries of part of suit survey number to show that the suit survey number and the defendant property is one and the same, only bi-numbers are different and the defendants property is adjacent to the suit schedule property, but whereas when we consider the cross examination of DW1 and Ex.A9 layout, it is clear that at western side boundary it is mentioned as land belongs to Mohan Reddy in sy.No.435/2 and in Ex.A1

also mentioned the land of Malla Reddy who is the husband of Smt. Shashi Rekha in same survey number, why because the gift deed of the plaintiff executed in the year of 2002 but whereas the property of the defendant No.1 sold to an extent of Ac.1-13 guntas out of Ac.1-35 guntas to Shashi Rekha, W/o.Malla Reddy in the year of 1991 itself. As per pleadings, prior to the execution of Ex.A1 Gift settlement deed in favour of the plaintiff, there was execution of sale deed in favour of Shashi Rekha, W/o.Malla Reddy executed by defendant No.1 in Sy.No.435/2, therefore the name of Mohan Reddy in Sy.No.435/2 mentioned at western side in layout submitted by the plaintiff to the Gram Panchayat on 31-12-2013 and Ex.A1 mentioned the land of defendant No.1, the both survey numbers are one and the same i.e. 435/2, the schedule of property boundaries mentioned in Ex.A1 in the year of 2002 at western side and the western side boundary mentioned in plaint schedule of property showed as land of Malla Reddy who is none other than the husband of Shashirekha to whom the defendant No.1 sold the property in Sy.No.435/2 to an extent of Ac.1-13 guntas out of Ac.1-35 guntas, therefore it is also clear that at western side of the schedule of property the boundary of the property of Shashi rekha, W/o.Malla Reddy is mentioned in Ex.A1 and in plaint, the western side boundary of the schedule of property is mentioned as agricultural land of Malla Reddy who is husband of Shashi Rekha in Sy.No.435/2, therefore at this stage the defendant who alleged to be sold the property to an extent of Ac.1- 13 guntas to one Shashi Rekha through the alleged registered sale deed in the year of 1991 is to be filed before this court to show that at which side of his property from Ac.1-35 guntas, he sold Ac.1-13 guntas, what are the boundaries of the alleged registered sale deed which is allegedly executed in favour of Shashi Rekha to an extent of Ac.1-13 guntas out of Ac.1-35 guntas and what are the boundaries to the remaining extent of Ac.0-22 guntas after execution of gift deed in favour of the defendant No.2 and 3, what are those specific boundaries, those have to be established by the defendants to show that the defendants having Ac.0-11 guntas each in Sy.No.435/2 within the specific boundaries but the defendant simply mentioned with regard to the alleged sale deed in favour of the Shashi Rekha in the year of 1991 to an extent of Ac.1-13 guntas but there is no such sale deed filed, atleast the

defendants failed to examine Shashi Rekha to show that whether she purchased the property to an extent of Ac.1-13 guntas within the specific boundaries and to show the existence of the property belongs to Shashi Rekha whether it is adjacent to the property of the plaintiff or it is adjacent to the part of the property of defendants No.1 or 2, therefore the defendants are not clear with regard to the selling of property to an extent of Ac.1-13 guntas with specific boundaries and also failed to establish the boundaries to the remaining property of Ac.0-22 guntas and also Ac.0-11 guntas each to defendants No.2 and 3. If the defendants atleast files certified copy of the alleged sale deed which is allegedly executed in favour of the Shashi Rekha, W/o.Malla Reddy in the year of 1991, then it will be clear that they sold the property out of Ac.1-35 guntas and it will be confirmed that at which side they sold and with regard to the existence of remaining property within the specific boundaries, but there is no such document filed by the defendants but they simply taken defence that at western side boundary mentioned in Ex.A1 and Ex.A9 plan map are different and also suit schedule property are different, therefore they are submitting that the plaintiff created those documents only to grab the property of the defendant, but on perusal of Ex.A1 and Ex.P9, in suit schedule property at western side boundary is in Sy.No.435/2.

(e). Ex.A10 is the FIR No. 536 of 2013, basing on complaint lodged by the plaintiff this FIR was registered against the defendants. Ex.A11 is the FIR No.323 of 2017 dated 17-05-2017 which is registered on the name of the defendants. Ex.A12 is also FIR No.348/2017 dated 23-05-2017 which is also given by the plaintiff against the defendants. Ex.A13 is the Encumbrance certificate from 01-01-1986 to 19-01-2014 dated 21-01-2014. It is clearly reflecting Ex.A1 transaction. Ex.A14 is the order passed by the Hon'ble High Court in IA No.1 and 2 of 2018. Ex.A15 is the certified copy of the sale deed which is executed by the defendants No.1,2 and 3 in favour of Smt. Nagelli Shashi Rekha vide document bearing No.2287 of 1991. As per this document, the boundaries mentioned to an extent of Ac.1-13 guntas out of Ac.1-35 guntas in Sy.No.435/A (Part) are towards North: by survey No. 466, South: by part of Sy.No.435/A, East: part of Sy.No.435/A and West: part of Sy.No.435/A, but in this document

also east and western side mentioned as Sy.no.435/A but it is not mentioned to whom it belongs, whether the part of the property belongs to the defendants or the property belongs to the plaintiff is also not clear and at which side the defendant No.1 sold the property to Shashi Rekha through this document is also not mentioned. Ex.A16 is the Certified copy of CMA No. 46 of 2014 on the file of the Hon'ble XVI Addl. District and Sessions Judge, Ranga Reddy District by submitting that the Interim Application under order 39 Rule 1 and 2 was filed by the plaintiff which was allowed, aggrieved by the orders they preferred CMA and the said CMA was also dismissed and again they went for second appeal before the Hon'ble High Court by way of CRP, the interim stay granted in that petition was vacated, therefore the both parties have submitted that there is no stay, therefore they advanced their arguments and proceeded the matter. However, as per the averments of the plaint and documents filed by the plaintiff it is clear that the donor under Ex.A1 has acquired the property from Laxma Reddy who was the original owner and the defendant No.1 also acquired Ac.1-35 guntas in same survey number and after that the share of the donor who is none other than the father-in-law of the plaintiff by name Janga Reddy executed gift deed in favour of the plaintiff through the Ex.A1 in the year of 2002 within the specific boundaries and later the name of the plaintiff incorporated in revenue records, therefore the plaintiff established that he is in possession and enjoyment of the property and also incorporated his name in revenue records as pattadar and possessor but whereas when we consider the evidence of the defendants, the defendant No.1 was allotted an extent of Ac.1-35 guntas of his share through the Partition deed dated 10-09- 1981 and out of that the defendants No.1 to 3 sold property to an extent of Ac.1-13 guntas in favour of Shashi Rekha, W/o.Malla Reddy in the year of 1991 through the Ex.A15 and for the remaining property of Ac.0-22 guntas, defendant No.1 executed gift deed in favour of the defendants No.2 and 3, but as per the defendants version, there are three documents executed by the defendant No.1 for the property of Ac.1-35 guntas and when we consider the documents, no document is showing that at which side of the property he sold and at what side gift deeds executed, if the defendant No.1 sold the property in the year of 1991 through the Ex.A15 to Shashi

Rekha, he has to specify the specific boundaries and also specify survey numbers but simply mentioned in the document at east and western side there is part of the Sy.No.435/1, if the defendants claiming the property in Sy.No.435/2, then how the boundaries of Shashi Rekha are showing that at east and western side the Sy.No. is 435/A which is belongs to the property of the plaintiff, why because the plaintiff is claiming the property in Sy.No.435/1 part, therefore whether the defendant No.1 sold the property to Shashi Rekha through the Ex.A5 between the Sy.No.435/1 and Sy.No.435/2. So the document which is executed by the defendant No.1 in favour of the Shashi Rekha is not clear with regard to the boundaries, the defendants also not mentioned with regard to the existence of the property within the specific boundaries.

(f). The further contention of the defendants is that during the pendency of the suit, the defendant No.1 died and no steps have been taken by the plaintiff, so that the suit against the defendant No.1 is abated, hence the suit is not maintainable against the defendants No.2 and 3 but the plaintiff counsel submitting that already the legal heirs of defendant No.1 i.e. defendants No.2 and 3 are on record, therefore there are no remaining legal heirs to include in this suit for bare injunction and further submitting that this suit is not for declaration or any comprehensive suit, hence the plaintiff counsel submitting that there is no need to implead all the legal heirs of the deceased defendant No.1. However, it is clear that the suit is filed for perpetual injunction that the defendants No.1 to 3 are interfering into his possession and the defendant No.1 died during the pendency of the suit and as per pleadings he had no property at present and defendants No.2 and 3 are alleged to be in possession of Ac.0-11 guntas each, therefore the defendants No.2 and 3 are already on record, so there is no need to again take the steps against the legal heirs of defendant No.1 and who are the other legal heirs of the defendant No.1 also not mentioned by the defendants counsel and also not submitted the particulars of the other legal heirs who are to be made as proposed defendants and moreover it is not a comprehensive suit to bring all the legal heirs as parties to the suit, it is suit for bare injunction, therefore the defendants who interfered into his possession are to be made as party and they are

already made as party, so that the defendant No.1 counsel cannot take such plea that the plaintiff has not taken any step after death of defendant No.1 during the pendency of the suit.

(g). The further contention of the defendant is that the Ex.A1 gift settlement deed is false and created one as there is no recital with regard to the acceptance of the donee and in gift settlement deed, but there should be an acceptance by the donee, if there is no such mentioning, the gift settlement deed is to be considered as void document but the plaintiff counsel contending that after execution of the Gift Settlement Deed under Ex.A1 in the year of 2002, the revenue authorities issued proceedings on the name of the plaintiff and also incorporated his name in revenue records as pattadar and possessor, therefore it is enough to prove that the plaintiff has accepted and acted upon basing on the Ex.A1 Gift settlement Deed but the defendants counsel contending that there should be acceptance by the donee. It is true that as per the contents and the documents filed by the plaintiff, after execution of Ex.A1, the proceedings issued by the revenue authorities and also issues pahanies, pattadar pass books on the name of the plaintiff, therefore it can be presumed that it is nothing but acceptance only and however if there is no acceptance by the donee it is the risk of the donor but the defendant cannot question with regard to the acceptance why because he is neither the party to the document nor any interested party to that property, therefore he cannot raise that question that there is no recital of acceptance in Ex.A1, so that it cannot be accepted.

(h). The further contention of the defendants is that the plaintiff gave complaint on 08-11-2013 to the SHO, Pet Basheerabad in which he clearly mentioned that the defendants encroached his property and cultivating the same, therefore the defendants counsel submitting that it is suffice to say that the defendants are in possession and enjoyment of the property, therefore the plaintiff is not entitled to seek the relief of injunction without possession but the plaintiff counsel contending that this complaint lodged on 08-11-2013 and the suit is filed on 23-01-2014, therefore after lodging of the complaint, till the date of filing of the suit there was a gap, at that time this plaintiff was in possession and enjoyment of the property and

now continuing possession, so that he cannot say that basing on contents of the complaint only the defendants are in possession and even if it is considered the same, it may be illegal possession, therefore the defendants cannot take such plea that as per the complaint dated 08-11-2013 the defendants are in possession.

(i). The plaintiff further submitting that he filed Interlocutory Application vide IA No. 47 of 2014 under order 39 Rule 1 and 2 in OS 11 of 2014 in which the Hon'ble Court granted interim injunction on 22-04-2014, aggrieved by the orders these defendants approached the Hon'ble XVI Addl. District & Sessions Court, Ranga Reddy District where the Hon'ble Court confirmed the order of this court and when they are again interfering into the possession of the plaintiff, the plaintiff filed the Interlocutory application for police aid in which the Hon'ble Court granted police direction to the defendants, even then the defendants again interfered into the possession of the plaintiff and the plaintiff approached the police but they did not take any action and also not provided police aid to the plaintiff as the brother-in-law of defendant is working in police department, so that he used his influence, therefore when the police did not give their assistance to implement the order, then the plaintiff approached the Hon'ble High Court for implementation of the police-aid protection orders and the Hon'ble Court given directions to the police to provide the police aid, therefore as per the orders the plaintiff is taking precautions and also taking steps to protect his property from the defendants but the defendants who simply taken defence did not file any supporting documents. However, the DW1 who is defendant No.3 is examined, filed the documents. Ex.B1 and Ex.B2 are the Gift Settlement Deeds. Ex.B3 and Ex.B4 are the pattadar pass book and title deed of defendant No.1, Ex.B5 to Ex.B13 are the pahanies. Ex.B14 is the receipt issued by the GP Gundla pochampally Village. Ex.B15 is the proceedings dated 12-11-2013, Ex.B16 is the FIR, Ex.B17 is the Caveat petition, Ex.B18 is the FIR, Ex.B19 is charge sheet and Ex.B20 is the Judgement copy in CC No. 162 of 2014 and the defendants contending that the criminal case registered on the name of the defendants was acquitted and it is filed as Ex.B20, but the plaintiff contending that the proceedings issued by the Gram Panchayat on

12-11-2013 was cancelled and filed the document at the time of arguments. The said receiving document petition was dismissed as the documents filed by the plaintiff at belated stage, however the proceedings copy dated 29-08-2018 obtained by the plaintiff under RTI Act and as per this document, after due enquiry the Village Secretary of Gundlapochampally Village has submitted that there is no compound wall and ACC roof but the defendants taken plea that there is a ACC roof having one room and also compound wall constructed after getting permission on 12-11-2013 from the Gram Panchayat, Gundlapochampally Village, but there is no such ACC shed and compound wall is in existence as per the notice dated 29-08-2018 issued by the Village Secretary and also the proceedings issued for construction of wall under Ex.B15 was cancelled. In IA No.01 of 19 in Writ Petition vide WP No. 11184 of 2019, the Hon'ble High Court granted police protection to the plaintiff in IA No. 47 of 2014, therefore as per these documents the plaintiff is taking steps whenever the defendants causing interference and also the defendants are disobeying the orders of the Hon'ble High Court.

(j) The PW2, PW3 and PW4 who are the third parties to the suit are also examined but nothing was elicited either in favour of the plaintiff or in favour of the defendants. In cross examination of PW1 he stated that there is an execution of gift deed under Ex.A1 and he further submitted that one of the boundary is mentioned as one Malla Reddy property at western side. The said property sold by the defendant No.1 to his wife and she constructed compound wall at western side of his property, therefore western side of the plaint schedule property there is land of Shashi Rekha who constructed compound wall but it do not belong to the defendants and as per the averments of both sides there are several transactions taken place belongs to the property of the defendant No.1 but when we consider the land of the donor of plaintiff, there is a single transaction taken place i.e. suit schedule property Ex.A1, therefore there is no ambiguity with regard to the boundaries but whereas the property of the defendants there is ambiguity with regard to the boundaries as there are no clear boundaries to their documents and also no base document to mention the boundaries. As per PW1 cross examination at western side of his property

there is land of Shashi Rekha and the defendant No.1 sold the land to Shashi Rekha to an extent of Ac.1-13 guntas, therefore if there is no land of Shashi Rekha at western side of the plaintiff property, then the defendants would have to examine the Shashi Rekha to establish the same but the defendants did not do so and the DW1 who is examined and marked the documents Ex.B1 to Ex.B20, these are not clear with regard to the existence of the property and also its boundaries, the DW1 clearly admitted with regard to the interim injunction orders under Order 39 Rule 1 and 2 and also police protection order passed by the Hon'ble High Court and also this court. He further admitted that the property of the plaintiff was surveyed and fixed boundaries but he stated that in his absence the survey was conducted, but if the survey conducted in his absence and it is a false report, what steps he has taken till today, no steps taken against the survey report, therefore as per the evidence of PW1 and the documents on which he relied under Ex.A1 to Ex.A16 are clearly establishing the possession of the plaintiff and also the documents supported that the plaintiff acquired the property through the Ex.A1 and his vendor acquired the property by way of partition, so to seek the relief of injunction these documents are sufficient to prove his possession and title but whereas the defendants who taken defence failed to prove their case and also failed to disprove the case of the plaintiff, therefore it is clear that the plaintiff proved prima facie that he is in possession and the defendants are interfering into possession, so that the plaintiff is entitled for perpetual injunction.

As per the discussion above these issues are answered accordingly in favour of the plaintiff against the defendants."

27. The stand that was taken by the unofficial respondents with regard to the structure being there in the schedule mentioned property is that much prior to filing of the suit way back in the year 2013 and about other documents in support of the State were negated by the Court below. It is submitted that the unofficial

respondents have preferred C.M.A. and the same is pending. Though the judgment and decree dated 25.10.2019 passed in O.S.No.11 of 2014, so far the appeal which was filed by the respondents has not seen the light of the day. On the face of it, it appears that having suffered several orders, the respondents / defendants were not vigilant in pursuing the matters. When an injunction is granted restraining them from interfering with the property, the very same defendant cannot come before this Court and submit that if at all they have violated the injunction orders, the remedy for plaintiff is to file an execution petition.

28. A party who has no respect to the rule of law, who has suffered the decree and still consistently filing petition one after the other, cannot afford to submit that remedy of the petitioner/plaintiff is elsewhere. In several judgments cited by the petitioner/plaintiff, it has been observed that the orders of the Courts have to be upheld at all times. In this manner, if litigant is permitted to take different stands and blow hot and cold at the same time, it would be very difficult to maintain rule of law and impossible to implement the orders of the Court.

29. The latest judgments of the Division Benches of this Court have taken the view that for implementing the decree of injunction seeking police protection, the decree-holder has to take appropriate

steps before the Court below for execution of the decree but not before this Court. Another Division Bench of this Court in case of ***Kotak Mahindra Bank's case*** (referred to supra) held that undoubtedly, the Court below has the power to issue directions for police protection. A Division Bench of this Court in case of ***Satyanarayana Tiwari*** has observed that any anterior or subsequent enquiry and finding of the police or any other authority cannot nullify the finding of the Court when particularly it is upheld by this Court by dismissing the Revision. That being the position, no authority in the State, Revenue or Police can ignore the finding of the civil Court or refuse to take steps to see that the orders of the civil Court are implemented. The Division Bench held that the power which a civil Court exercises under Section 151 CPC, the High Court can exercise the same power under Article 226 of the Constitution of India. The Division Bench has considered the judgment of the Apex Court in ***Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale***⁵. These judgments were not brought to the notice of the other Division Benches.

30. There is no dispute about the fact that for execution of the decree of a civil Court, the decree-holder has a remedy to file the execution proceedings. At all times, it should be the duty of the constitutional Courts to uphold the rule of law and the fundamental

⁵ AIR 1960 SC 137

rights of the citizens. The defendant in the suit and the respondent herein has conveniently taking the process of the Court for a ride. Though this Court is not giving a finding that in each and every case whenever there is violation of injunction order, the remedy to the affected party is to approach the High Court, in this case where plaintiff and defendant both are before the Court and the Court having observed the conduct of the defendant, in these type of cases, if the police protection is not ordered, people will lose hope on the judicial system.

31. In the peculiar facts and circumstances of the case, where both the parties are before this Court by filing two kinds of writ petitions by questioning the action of the police, where the unofficial respondents have suffered decree, all the stands that were taken before this Court are already negated by the Court below and the decree happens to be of the year 2019, it is a fit case where the respondent police shall provide police protection in respect of the land admeasuring Ac.1-00 guntas in Survey No.435/1 part, situated at Gundlapochampally Village, Medchal Malkajgiri District as per the judgment and decree in O.S.No. 11 of 2014 dated 29.10.2019.

32. Then coming to the other part of the relief sought by the petitioner in W.P.No.32891 of 2022 stating that respondent No.6 at the behest of respondent No.7, who is related to defendant Nos.2 and

3/unofficial respondents, is acting in a manner unknown to law. This Court is not able to appreciate any of the said stands taken by the petitioner for the reason, when he has come before the Court making allegations against the public servants, he has to at least place relevant material before the Court, to come to the said conclusion as submitted by him. Without there being any material, but purely basing on the affidavit filed by the petitioner, this Court cannot initiate any action against the respondents.

33. Learned counsel appearing for respondent No.7 submits that basing on the petitioners complaint, the Commissioner has initiated an enquiry and as per the enquiry, respondent Nos.6 and 7 have nothing to do with the same. It is submitted that even before the Human Rights Commission also, a complaint was filed and the same was closed by the Commission.

34. Learned Government Pleader for Home submits that to settle the civil scores, both the respondents as well as the petitioners are blaming the police by filing complaints. He submits that as per the order passed by this Court when they wanted to implement the order, the unofficial respondents have come before this Court and filed Writ Petition No.271 of 2020. He submits that several civil proceedings are also pending between the parties. It is submitted that there is no

intention on the part of the respondent police to violate any of the Court orders but only because of the *inter se* disputes, these complaints were filed. He submits that whenever both the petitioner and unofficial respondents are creating law and order problems, they have been registering the cases. It is submitted that absolutely they have no intention to violate the orders passed by this Court or the orders passed by the Court below.

35. As far as the allegations against respondent Nos.6 and 7 are concerned, as no material is placed, this Court is not inclined to consider any of the said allegations as stated in their affidavit. The conduct of the unofficial respondents in filing this kind of petitions, having suffered judgment and decree, the orders where the stay was vacated in I.A.No.377 of 2018 cannot be appreciated. They filed W.P.No.271 of 2020 much after the orders were vacated by the Court below in I.A.No. 377 of 2018 in O.S.No. 81 of 2018 observing that the suit is filed with suppression and mis-representation of facts. The Writ Petition filed by them is silent and suppressed all the material facts. The Court is not able to appreciate this kind of conduct on the part of the unofficial respondents/writ petitioner in W.P.No.271 of 2020 and this kind of practices should be discouraged.

36. Accordingly, W.P.No.271 of 2020 is dismissed with costs of an amount of Rs.10,000/- (Rupees ten thousand only). W.P.No.32891

of 2022 is allowed by directing the respondents to provide police protection in respect of land admeasuring Ac.1.00 in Survey No. 435/1 Part situated at Gundlapochampally Village, Medchal Mandal, Medchal-Malkajgiri District.

37. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE LALITHA KANNEGANTI

30.06.2023
Dua