
(2021) 12 TEL CK 0046
In the Telangana High Court
Case No : Writ Appeal No. 650 Of 2021

Uke Nagamma

APPELLANT

Vs

Telangana State Human Rights Commission, And 13 Others

RESPONDENT

Date of Decision : 15-12-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2021) 12 TEL CK 0046

Hon'ble Judges : Satish Chandra Sharma, CJ;N. Tukaramji, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The present Writ Appeal is arising out of the order dated 8th November, 2021 passed by the learned single Judge in Writ Petition No.14868 of 2021.

The facts of the case will be that the appellant has preferred a Writ Petition for issuance of appropriate order/ direction directing 7th and 8th respondents not to enter into the land of petitioner.

It was stated by the petitioner in the said Writ Petition that she is the owner of agricultural land admeasuring Acs.1.07 guntas in Sy.No.273/22 and Acs.1.07 guntas in Sy.No.273/23, situate at Dammamet, and Acs.4.00 guntas in Sy.No.269 of Pedda Gollagudem Revenue Village.

It was also claimed by the petitioner that she is the absolute owner of agricultural land, and she had also filed a Civil Suit O.S.No.208 of 2020 against 12th and 13th respondents.

It was also stated in the said suit that she sought a perpetual injunction and an ad interim injunction order was passed on 28.08.2020 in Interlocutory Application No.194 of 2020 therein restraining 12th and 13th respondents from interfering with the peaceful possession and enjoyment of the petitioner.

It has been further stated that the petitioner has also filed a Writ Petition

No.6658 of 2020 for issuance of an appropriate order directing to declare the action of the Station House Officer, Dammapeta Police Station, Dammapeta and the Tahsildar, Dammamet Mandal, Bhadradi Kothagudem District, Telangana for allegedly colluding with unofficial respondents and not permitting the petitioner to enter the fields. It has also been stated that the police was interfering with the petitioner's possession.

In the said Writ Petition No.6658 of 2020, a prayer was made for restraining the Station House Officer, Dammapeta Police Station, Dammapeta and the Tahsildar, Dammamet Mandal, Bhadradi Kothagudem District, Telangana from entering the petitioner's fields.

The 13th respondent, Sri P.V.P. Chandra Kumar, did file a reply before the learned Single Judge stating categorically that he is, in fact, owner of land in Sy.No.273/81 admeasuring Acs.5.00 gts. at Dammamet Village and Mandal, and that was assigned by the Government to him. It has been further stated that as the petitioner / appellant was interfering with the possession he has filed O.S.No.137 of 2020, and the Principal Junior Civil Judge, Sathupally has granted interim injunction on 30.04.2020. It has been further stated that the 8th respondent has also filed a counter, and it has been stated that there are serious disputed question of facts in the matter.

Also, it is pertinent to note that two Civil Suits and one Writ Petition are pending, and there is a dispute regarding identification of property and title, and the disputes are to be decided by the Civil Court.

Meanwhile, the appellant herein is claiming ownership and title to her land in Sy.Nos.273/22 and 273/23 of Dammamet Village and also in Sy.No.269 of Pedda Gollagudem Revenue Village, and the above Civil Suits are pending between the parties.

The learned Single Judge disposed of the Writ Petition No.14868 of 2021 with the following observations, viz.,

"11. The petitioner herein has filed W.P.No.6658 of 2020 with almost similar relief, and this Court ordered notice. There is no interim order. Respondent no.13 has filed W.P.No.20516 of 2020, and this Court vide orders dated 26.11.2020 in I.A.No.1 of 2020 recorded the apprehension of the petitioner therein and directed to maintain status quo. The said Writ Petition is also pending and the said order is subsisting. The petitioner and two others have filed W.P.No.18497 of 2020 against the respondents herein including respondent nos.12 and 13 to declare the action of the Principal Junior Civil Judge, Khammam District at Sathupally, without having its jurisdiction in entertaining the suit filed by respondent No.12 for perpetual injunction in O.S.No.137 of 2020 and passing ex parte order dated 03.04.2020 in I.A.No.2 of 2020 as illegal, and for a consequential direction to redirect respondent no.6 to assail the rights before the proper forum forthwith. A Division Bench of this Court vide order dated 09.03.2020, disposed of the said Writ Petition granting liberty to the petitioners therein to file a suit seeking

rejection of the plaint. Therefore, the petitioner is aware of the pendency of the said suit in O.S.No.137 of 2020.

12. In view of the above, it is clear that there is a dispute with regard to the identification of property since O.S.No.208 of 2020 filed by the petitioner relates to the agricultural land bearing Sy.No.269/1 to an extent of Acs.4.00 guntas situated at Pedda Gollagudem Revenue Village of Dammamet Mandal, whereas O.S.No.137 of 2020 filed by respondent no.12 relates to the oil palm garden bearing Survey No.273/81 to an extent of Acs.5.00 guntas of Dammamet Revenue Village of Bhadradi - Kothagudem District. Thus, both the schedule of properties are different, survey numbers are different. Even according to respondent No.8, the petitioner is not in possession of the subject land. The said dispute with regard to the identification of property, it has to be decided by a competent Civil Court and not by this Court under Article 226 of the Constitution of India. Thus, there are disputed questions of facts including title and possession of the petitioner over the subject property which are to be resolved by the competent Civil Court. The petitioner herein failed to make out any case and, therefore, the Writ Petition is liable to be dismissed.

13. The present Writ Petition is accordingly dismissed granting liberty to both the petitioner and respondent nos.12 and 13 to decide the said disputed question of facts in the aforesaid suits and thereafter they are at liberty to seek police aid. The interim order granted by this Court stands vacated."

In the considered opinion of this Court, as there are serious disputes with regard to the identification of property and O.S.No.208 of 2020 has been filed by the petitioner which relates to agricultural land bearing Sy.No.269/1 to an extent of Acs.4.00 guntas situated at Pedda Gollagudem Revenue Village of Dammamet Mandal, whereas O.S.No.137 of 2020 filed by respondent no.12 relates to Survey No.273/81, the dispute with regard to identification of property has to be decided by the Civil Court and certainly not in exercise of powers conferred under Article 226 by the Constitution of India by the High Court.

In the present case, seriously disputed question of facts and rival claims regarding ownership are made, hence the learned Single Judge has rightly dismissed the Writ Petition, granting liberty to the petitioner as well as 12th and 13th respondents to get the disputes decided by the Civil Court and to seek police protection after the order is passed by the Civil Court, and in view of the disputed question of facts, this Court also cannot decide the factum of title and possession, admission is declined, but granting liberty to petitioner and the respondents to resolve the civil disputes before the Trial Court.

Accordingly, the Writ Appeal is dismissed with the above observations. No costs.

Consequently, miscellaneous applications, pending if any in this Writ Appeal, shall stand closed.