

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO. 24310 OF 2020

Between:

1. Anwar-Ul-Haq, S/o. Gulam Hussain, aged about 83 years, Occ : Agriculture, R/o. Babasagar Village, Chintalamanepalli Mandal, KB. Asifabad District.
2. Mohib-Ul-Haq, S/o. Anwar-Ul-Haq, aged about 47 years, Occ : Agriculture, R/o. Babasagar Village, Chintalamanepalli Mandal, KB. Asifabad District.

...PETITIONERS

AND

1. The State of Telangana, represented by its Principal Secretary, Home Department, Secretariat, Hyderabad.
2. The Superintendent of Police, Komurambheem Asifabad District at Asifabad.
3. The Additional Superintendent of Police, Komurambheem Asifabad District at Asifabad.
4. The Station House Officer/Inspector of Police, Kowtala Police Station, KB. Asifabad District.
5. The Sub - Inspector of Police, Chintalamanepally Police Station, KB. Asifabad District.
6. Barla Anjaiah, S/o. Ramaiah, aged about 58 years, Occ : Agriculture, R/o. Rudrapur Village, Chintalamanepalli Mandal, KB. Asifabad District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to pass an order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ or direction holding that the inaction of the official Respondents in not taking any action for grant of police aid/protection to the Petitioners for proper implementation of the orders of Hon'ble Junior Civil Judge at Sirpur in I.A. No.418 of 2017 in O.S. No.79 of 2017 dated 23.07.2019 on the complaints filed by the Petitioners dated 11.12.2020, 13.12.2020 and 22.12.2020, is illegal, arbitrary, malicious, politically motivated, against the principles of natural justice and fair play and not only violative of the provisions of Article 14, 19, 21 and 300A of the Constitution of India but also violative of the injunction orders passed by the Civil Court and may be pleased to direct the Respondents No.3 to 5 to grant police aid/protection to the Petitioners for proper implementation of the orders passed by Hon'ble Junior Civil Judge at Sirpur in I.A. No.418 of 2017 in O.S. No.79 of 2017 dated 23.07.2019 by considering the complaints filed by the Petitioners dated 11.12.2020, 13.12.2020 and 22.12.2020 enabling the Petitioners to harvest the cotton crop in Sy.No.122/2/ admeasuring Ac.09-20 guntas situated at Rudrapur Village, Chintalamanepally Mandal, Kaghaznagar Division, KB. Asifabad District.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents No. 3 to 5 to grant police aid/protection to the petitioners for proper implementation of the orders passed by Hon'ble Junior Civil Judge at Sirpur in I.A. No. 418 of 2017 in O.S. No. 79 of 2017 dated 23.07.2019 by considering the complaints filed by the petitioners dated 11.12.2020, 13.12.2020 and 22.12.2020 enabling the petitioners to harvest the cotton crop in Sy.No.122/2/ . admeasuring Ac. 09-20 guntas situated at Rudrapur Village, Chintalamanepally Mandal, Kaghaznagar Division KB. Asifabad District during to pendency of the writ petition.

Counsel for the Petitioners: SRI MD. AJMAL AHMED

Counsel for the Respondent Nos. 1 to 5: AGP FOR HOME

Counsel for the Respondent No.6: NONE APPEARED

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.24310 of 2020

ORDER :

Heard learned counsel for petitioners and learned Assistant Government Pleader for Home.

2. First petitioner is the father of second petitioner. He claims to be absolute owner and in possession of agricultural land to an extent of Ac.9.50 guntas in survey No.122/2/AA of Rudrapur Village, Chintalamanepally Mandal, Kumarambheem Asifabad District. According to first petitioner, the said land accrued to him in the family partition. Petitioners allege that sixth respondent and a person by name Barla Narayana were causing unnecessary interference. Aggrieved by their actions, O.S.No.79 of 2017 was instituted in the Court of Junior Civil Judge at Sirpur praying to grant Permanent Injunction. In the said suit, I.A.No.418 of 2017 was filed to grant temporary injunction. The trial Court initially granted ex parte ad interim injunction and after contest, by order dated 23.07.2019 affirmed the injunction order granted earlier. By virtue of the said injunction order, petitioners are in continuous possession and enjoyment. That being so, on 13.12.2020 complaint was lodged with the police alleging that Sri Barla Anjaiah trespassed into the land of petitioners and has taken away the entire cotton crop, which amounts to committing theft of the property belonging to them. On 22.12.2020, petitioners lodged complaint with the Additional Superintendent of Police repeating the contents of their complaint dated 13.12.2020 and requested him to mandate the subordinates to look into the grievance. This writ petition is filed alleging that inspite of request

made by the petitioners to grant police protection for compliance of injunction order granted by the civil Court, so far they have not acted upon.

4. From the perusal of the complaint lodged on 13.12.2020 and representation submitted to the Additional Superintendent of Police on 22.12.2020, it is seen that content of the complaint as well as representation is alleged theft committed by Barla Anjaiah along with Gunti Rajamallu on 12.12.2020. In both the complaints, petitioners do not state in what manner protection is required. Even according to said complaints, in December the crop was harvested by those two persons, though it is alleged as theft. It is stated by learned counsel for the petitioners that some more standing crop is there. Looking at the complaints filed by them, it is shown as if entire crop is taken by persons named in the complaint. Thus, what is now stated is not reflected in the complaints. Further, petitioners do not say that they are now intending to harvest the remaining crop and there is alleged threat of involvement of those persons and protection is required. Therefore, it cannot be said that police were negligent in extending the protection in compliance to the injunction order granted in their favour. It is not the case of petitioners that police are not registering the complaint lodged by them and investigating into the same. However, on this aspect, consistently this Court has taken the view that writ petition is not a remedy, aggrieved person has to avail remedy available in the Code of Criminal Procedure as held by the Hon'ble Supreme Court in **Sakiri Vasu v. State of Uttar**

Pradesh¹ and affirmed in **M.Subramaniam and another v. S.Janaki and another²**. If still cotton crop is lying on the land and petitioners need protection by the police to harvest the said crop, specific request may be made by the petitioners by specifying the date on which, they intend to harvest the crop. If such representation is made, police are directed to consider the same and provide protection for the purpose of harvesting of the cotton crop.

5. In view thereof, this writ petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed.

¹ (2008) 2 SCC 409

² 2020 SCC Online S.C. 341

//TRUE COPY//

SD/-M.MANJULA
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal Secretary, Home Department, State of Telangana, Secretariat, Hyderabad.
2. The Superintendent of Police, Komurambheem Asifabad District at Asifabad.
3. The Additional Superintendent of Police, Komurambheem Asifabad District at Asifabad.
4. The Station House Officer/Inspector of Police, Kowtala Police Station, KB. Asifabad District.
5. The Sub - Inspector of Police, Chintalamanepally Police Station, KB. Asifabad District.
6. One CC to Sri Md. Ajmal Ahmed, Advocate [OPUC]
7. Two CCs to GP for Home, High Court for the State of Telangana at Hyderabad. [OUT]
8. Two CD Copies.

MP

HIGH COURT

DATED:31/12/2020

ORDER

WP.No.24310 of 2020



DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

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04/01/2021