

**THE HONOURABLE SRI JUSTICE S.V. BHATT**

**WRIT PETITION No.20036 OF 2007**

**ORDER:**

With the consent of the learned counsel for parties, the writ petition is taken up for disposal.

2. The petitioners are occupants in Survey No.217/6 of Penkey Vari Colony, Old Gaigolupadu, Ramanayyapeta Village, Kakinada Rural Mandal, Kakinada. The present writ petition is filed with a prayer to issue Mandamus declaring the action of fifth respondent, dated 15.05.2007, directing the petitioners to vacate the houses and deliver vacant possession to the fifth respondent on or before 30.09.2007, as illegal, violative of Articles 14, 21 and 300-A of Constitution of India. Consequently, direct the respondents not to dispossess the petitioners from their respective houses in their possession in Survey No.217/6 in an extent of Acs.4.18 cents.

3. The petitioners belong to Below Poverty Line and most of them do have the benefit of reservation and that all of them are eking out their livelihood by working as agricultural labour, etc. It is further stated that one Penkey Raghuvulu purchased the land in Survey No.217/6 of Ramanayyapeta Village of Kakinada Rural Mandal, Kakinada, East Godavari District, in an extent of Acs.4.18 cents and donated the same to the petitioners and their family members during the years 1962-1964. The petitioners claim to have started living with temporary structures and in due course of time constructed pucca houses. As regards the alleged gift from Penkey Raghavulu in favour of petitioners, the petitioners have not placed any material before the Court. Be that as it may, the fact of the matter is that they

all have constructed houses and are in physical and actual possession of the same. The petitioners refer to the notice posted at the locality on 01.09.2007 by the fifth respondent claiming that the subject land belongs to 'Bhoodan Board'. Encroachments are treated as trespassers and action will be initiated. The said notice prompted the petitioners move to the Court.

4. This Court, through interim order dated 21.09.2007, directed the respondents not to demolish or dispossess the houses of petitioners without following due process of law. Respondent Nos.3 to 5 have filed counter affidavit and the history of subject land has been set out in detail. It is the stand of respondent Nos.3 to 5 that the land covered by Survey No.217/6 was donated in favour of 'Bhoodan Yagna Board' by Pydah Suryanarayana Murthy and the land belongs to 'Bhoodan Yagna Board'. As a matter of fact excepting Ac.0.50 cents of land in Survey No.217/6, rest of the land is in occupation of the petitioners. Through counter affidavit, it is further stated that the intention of notice dated 01.09.2007 is to protect the vacant 50 cents of land and not in respect of land where the petitioners have already constructed houses. At the time of hearing it is stated that the respondents do not intend to either dispossess or demolish the houses of petitioners without regard to the procedure prescribed by law. The statement of the learned Government Pleader is placed on record and also the categorical assertion in the counter affidavit that the notice Board is intended only in respect of 50 cents of vacant land in Survey No.217/6. In view of these two circumstances, the grievance of the writ petitioners is substantially redressed.

5. One J.V.V.Subba Reddy has been added as respondent No.6, pursuant to the orders in W.P.M.P.No. 26877 of 2011, dated 11.08.2011. The case of respondent No.6 is that he is the purchaser

of land covered by Survey No.217/1 of Ramanayyapeta, Kakinada Rural Mandal, East Godavari District. By reference to the incorrect description of boundaries which on account of lack of proper demarcation, the petitioners, by reference to the order granted by this Court, are either trying to interfere with the possession of respondent No.6 or further developing the vacant land to the detriment of respondent No.6.

6. It is held that if respondent No.6 has grievance against the petitioners, he will have to necessarily work out his remedies in a properly instituted suit/proceedings in appropriate Forum. The scope of the present writ petition is only to restrain the respondent Nos.3 to 5 from illegally either interfering with or evicting the petitioners from the land in Survey No.217/6. The grievance of respondent No.6 cannot be considered in this writ petition. The cause of respondent No.6 and the deeds on which he relies upon is not considered in disposing the present writ petition.

7. With the above observations, the writ petition is ordered. The other W.P.M.Ps. filed by the petitioners are dismissed, as it amounts to misjoinder of cause of action. It is however, made clear that the dismissal of the W.P.M.Ps. do not bar the petitioners from pursuing appropriate legal remedies for the prayers covered by these W.P.M.Ps. There shall be no order as to costs.

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**S.V. BHATT, J**

**11.12.2013.**

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