

THE HONOURABLE SRI JUSTICE S.V.BHATT

W.P.No.4462 of 2009

ORDER

Beneficiaries Committee of order in Rc.No.215/91/S7 dated 14.07.1994 of Collector, Krishna District S.C.Service Cooperative Society Limited, Kara Agraharam, Bandar Mandal, Krishna District, through its President Putti Balaswamy, has filed the present writ petition with a prayer to issue a writ of mandamus declaring the action of respondents in threatening to demolish the prawn tanks owned by 76 landless Scheduled Caste beneficiaries in an extent of Ac.118.14 cents of land in R.S.No.248/P, Kara Agraharam, Bandar Mandal, in terms of order in Rc.No.215/91/S7 dated 14.07.1994, as illegal, arbitrary and unconstitutional.

2. Pursuant to the direction dated 12.05.2013 of this Court, the learned Government Pleader has made available the file relating to proceedings in Rc.No.G4/3479/2006 dated 28.08.2006, and also the alleged resumption of subject land on 30.08.2006. This Court has advantage of perusing the original files on the subject litigation. The consideration avoids repetition of admitted facts.

3. The averments in brief are as follows;

The petitioner Committee consists of Scheduled Caste persons and are residents of Chinna Kara Agraharam/Peda Kara Agraharam of Bandar Mandal. The members of the petitioner Committee have been making representations for assignment of Government land to eke out their livelihood. After considering

their eligibility and available land for assignment, the Tahsildar, through proceedings dated 17.10.1973, assigned Ac.1.00 of land each to 52 scheduled caste persons. By reference to the 'ek saal' lease, the beneficiaries had undertaken manufacture of salt on the assigned lands.

4. With the change of living conditions and the development of prawn cultivation, the beneficiaries requested the first respondent to permit them to undertake prawn cultivation. The first respondent short-listed 76 beneficiaries to provide subsidy or financial assistance to undertake prawn cultivation. The same has been brought into reality through proceedings in Rc.No.215/91/S7 dated 14.07.1994. Financial assistance has been provided within the efforts at their disposal through R-1/Corporation. It is the case of petitioners that they have carried prawn cultivation for about two years. Due to adverse climatic conditions and major cyclones in the year 1998, the ponds have been adversely affected and the members of petitioner Committee were unable to recover from the financial loss suffered by them leading to discontinuation of prawn cultivation. The members of the petitioner Committee on this point categorically assent that they have abandoned prawn cultivation, but they have not abandoned possession of the subject land.

5. The grievance of petitioners is that without an order being passed against the Corporation, namely, S.C.Corporation, Krishna District, or without serving notice on the members of the petitioner Committee, the respondents are threatening to demolish the prawn ponds/evict the petitioners from the subject land. In other words,

the members of the petitioner Committee are sought to be dispossessed or disturbed without following the procedure stipulated by law.

6. This Court, through order dated 05.03.2009, granted interim stay of demolition/eviction of beneficiaries of proceedings dated 14.07.1994 from the subject land. The interim order is continuing as on date.

7. The file discloses that the third respondent through letter No.Rc.B.1406/2006 dated 22.05.2006, brought to the notice of the second respondent a few circumstances which have come to his knowledge. The gist of letter dated 22.05.2006, is that the subject land in an extent of Acs.118.14 cents is classified as U.A.W.D. and was handed over to the Executive Director, S.C.Corporation for the purpose of enabling the beneficiaries to undertake prawn cultivation. According to the office letter dated 10.02.1999, the beneficiaries have abandoned the prawn cultivation and the third respondent proposed for providing house sites under Indiramma Scheme and he sent a recommendation to the first respondent that the subject land is very suitable for house sites and the same can be resumed by the Government. It is noted that the subject land will also be useful in view of construction of Bandar Port and the land will become very valuable. Confirming the contents of letter dated 22.05.2006, the Revenue Divisional Officer, Bandar, requested the District Collector/second respondent to resume the land. The crux of the matter arises upon the recommendation of the Revenue Divisional Officer dated 31.05.2006.

8. The District Collector is the Chairman of S.C. Corporation/R-1. Notwithstanding such fact, the District Collector when called upon to handover possession of the land, the Executive Director, S.C. Corporation not only declined to hand over possession but stated that the same is required for the use of Scheduled Caste members/beneficiaries.

9. Be that as it may, this Court is not concerned with the stand of the Executive Director, S.C. Corporation, Krishna District, but the fact is that the subject land is admittedly entrusted to S.C. Corporation for further allotment in favour of the beneficiaries way back 1994. Either in fact or in law, S.C. Corporation is not in possession of the subject land. The Mandal Revenue Officer also refers to the possession of beneficiaries pursuant to the proceedings dated 14.07.1994. It has not come to the contemplation of the second and third respondents that without putting their Corporation on notice or the beneficiaries, who are in actual possession of the subject land, the land cannot be resumed. Surprisingly, the second respondent issued proceedings in Rc.G4/3479/2006 dated 28.08.2006. Through the said proceedings, he issued twin directions, firstly, the Corporation which he heads as Chairman to handover possession of subject land to the third respondent and secondly, the third respondent to take back subject land from the Corporation. A bare look at these dates and narration would disclose that in the most arbitrary manner, a decision to resume land, which is in possession of the beneficiaries of proceedings, has been passed through

proceedings

dated 28.08.2006. In furtherance of the said proceedings, the respondents claim possession under panchanama dated 30.08.2006. I have noticed the panchanama under which possession is alleged to have been taken in accordance with law. The panchanama is cryptic and does not inspire confidence of the Court to appreciate that the same has been done either by following the procedure stipulated by law or the persons in whose possession the land is stated to be, are at least informed of the alleged act of taking possession through notice or otherwise.

10. Having regard to the totality of the circumstances, this Court is of the opinion that the assignment order dated 28.08.2006 and the possession dated 30.08.2006 are illegal and cannot be operative against the beneficiaries of the petitioner Committee.

11. It has been brought to the notice of the Court that as against Acs.118.14 cents of land, the respondents have already allotted house plots in an extent of Acs.5.00 and odd and the balance of land in Acs.112.00 and odd is retained and kept in land bank. The present position is stated at the time of hearing of the writ petition. This Court is not proposing to disturb assignment in Acs.5.00 and odd where houses have already come up and the beneficiaries are actually residing in the houses. As regards the balance extent of Acs.112.00 and odd is concerned, the petitioner and the respondents are directed to maintain status quo as on today and it is left open to the second and third respondents, if they are so advised, to issue notice, hear the members of the petitioner

Committee and pass appropriate orders in accordance with law.

12. The Writ Petition is ordered in the above terms. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

S.V.BHATT, J

20th December, 2013

sj