

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.32128 of 2011

Dated 09.09.2015

Between:

J.Manjunadh and 5 others.

... Petitioners

and

-
The APSRTC

rep. by its Regional Manager, Ananthapur and 4 others.

...Respondents

Counsel for the petitioners: Mr.N.Aswarthanarayana

**Counsel for the respondents: Mr.Aravala Rama Rao, SC for
APSRTC**

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to declare the action of respondent Nos.1 to 3, in constructing (*sic* seeking to construct) a shopping complex in the land in Survey Nos.875-3B and 875-3-A2 situated in front of RTC Bus Stand at Kanekal Gram Panchayat, Kanekal Mandal, Anantapur District, contrary to the resolution of the Gram Panchayat and seeking to forcibly evict the petitioners from the said premises, as illegal and

arbitrary.

At the hearing, it has come out that in respect of the same land, which is the subject matter of this Writ Petition, the Kanekal Gram Panchayat has filed WP.No.32550 of 2011, for a Mandamus to declare the action of respondent Nos.1 to 3 herein, in raising unauthorized constructions over the said land and in preventing it from removing those illegal constructions, as illegal and arbitrary. This Court, while disposing of the said Writ Petition, on 25.06.2015, made the following observations:

“There is a long standing dispute between the petitioner on one side and respondent No.1 – Corporation on the other. While it is the case of the petitioner that the land in Sy. No.875/3B1 of Kanekal Village is vested in the petitioner and at the request of respondent No.1 an extent of Ac.0.25 cents was allotted to it for construction of Andhra Pradesh State Road Transport Corporation Bus Stand, it is the pleaded case of respondent No.1 that vide proceedings in Roc No.336/99, dt.29.7.1999, the Mandal Revenue Officer has allotted Ac.0.90 cents in Sy. Nos.875/3A2 and 875/3B to respondent No.1 and the possession was handed over on the same day. Though the petitioner asserts that the land is vested in it, no evidence in support thereof has been filed

by it.

Ordinarily, all the lands other than private lands are vested in the Government. Under the Act, certain properties and works are vested in Gram Panchayats, such as, public roads in Gram Panchayats (under Section 53 of the Act), communal property or income in Gram Panchayats (under Section 55 of the Act), Maintenance of Irrigation works (under Section 56 of the Act), management of ferries etc., in Gram Panchayats (under Section 57 of the Act), and certain porambokes, such as grazing grounds, threshing floors, burning and burial grounds, cattle stands, carts tanks and topes, which are at the disposal of the Government and are not required by them for any specific purpose (under Section 58 of the Act). It is not the pleaded case of the petitioner that the land which is in dispute falls under any of these provisions. Therefore, it is not possible for this Court to recognize the petitioner as the owner of the land, which is allegedly in occupation of respondent No.1 – Corporation. In the absence of clear title vested in the petitioner and in the face of a serious dispute raised by respondent No.1 with regard to ownership of the petitioner over the land in dispute, it is not possible for this Court to grant any relief to the petitioner in a proceeding under Article 226 of the Constitution of India. The appropriate remedy for the petitioner is to avail the common law remedy of a civil suit seeking declaration of its title and other consequential reliefs. If such suit is filed, the

Civil Court shall adjudicate the same on its own merits, without being influenced by the observations contained in this order.”

It is the same land, which is claimed by the Kanekal Gram Panchayat, that the petitioners claim to be in occupation of. As observed in the Order reproduced above, the dispute over title can be decided only by a competent Court of law. Therefore, this Court is of the opinion that the petitioners herein shall also be relegated to the civil Court as was done in W.P.No.32550 of 2911 filed by the Kanekal Gram Panchayat.

In this view of the matter, the Writ Petition is dismissed without adjudicating the same on merits and with liberty to the petitioners to avail the common law remedy of a civil suit, if respondent Nos.1 to 3 propose to evict them from the land, allegedly, in their occupation.

As a sequel to dismissal of the Writ Petition, interim order, dated 28-12-2011, is vacated and WVMP.No.1881 of 2015 and WPMP.No.39904 of 2011 are disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 9th September, 2015
LUR