

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT

WRIT APPEAL No. 763 OF 2015

12-08-2015

Between:

Muliki Sambaiah and ten others

... Appellants

And

The State of Andhra Pradesh, rep., by its Principal Secretary to
Government, Irrigation and CAD Department, Secretariat, Hyderabad
and six others

... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT
-
WRIT APPEAL No. 763 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the parties.

This appeal is directed against the order dated 31-07-2015 whereby learned single Judge dismissed Writ Petition No.14599 of 2015 filed by the appellants. In the writ petition, the appellants challenged the action of the respondents in attempting to dig lands in their possession without notice to them as arbitrary and illegal. The lands allotted to the appellants for cultivation are in the tank poramboke. The learned single Judge considered the case of the appellants in proper perspective and dismissed the writ petition with the following observations:

“7. In the face of the above rival contentions of the parties, this Court verified the temporary pattas granted in the year 1976. It indicates that on 28.07.1976 on the application of one Kotturu Mastan and 19 others, provisional assignment orders for fasli 1386 were issued showing small extents of land in Survey No.296. It was specifically stated therein that the said permission was subject to cancellation without any notice or without any right to the grantee. The papers filed along with the writ petition also indicate that they have submitted a representation on 11.05.2015 to the District Collector stating that they were given temporary pattas in the year 1976 and nearly 50 persons are living on the said land and asked the District Collector to issue necessary orders for cancellation of digging activity.

8. In view of the above, it is clear that no temporary pattas were granted in favour of the writ

petitioners except permission granted for 1386 fasli. The revenue records clearly stated that the land admeasuring Ac.23.30 cents in the village is recorded as tank poramboke. After the said incident, the petitioners are in occupation of an extent of Ac.13.48 cents. In view of various orders issued by the Government from time to time, the Government is under obligation to maintain the tank and the assignment of the said lands is prohibited. The Tahsildar, Pedakakani Mandal cited the following documents/orders in support of his contention.

- i) G.O.Ms.No.157 Revenue (M) Department, dated 13.02.1987.
- ii) Memo No.50150/Assn.I(1)/97-11 Rev. (Assn1) Department, A.P., Hyderabad, dated 02.09.2008.
- iii) Memo No.65961/Assn.I(1)/97-11 Rev. (Assn1) Department, A.P., Hyderabad, dated 08.02.1999.
- iv) Civil Appeal No.4787/2001 of Hon'ble Supreme Court of India, dated 25.07.2001.
- v) W.P.No.9250 of 2001 of Hon'ble A.P. High Court, dated 14.03.2002.
- vi) Circular instruction No.81/1488/1997 of CCLA, Hyd, dated 21.08.2002.
- vii) Memo No.24140/Assn.I(1)/03-3 Rev. (Assn1) Department, A.P., Hyderabad, dated 22.08.2003.
- viii) Circular instruction No.B2/2225/2003 of CCLA, Hyderabad, dated 28.08.2003.
- ix) Circular instruction No.B2/2225/2003 of CCLA, Hyderabad, dated 20.09.2003.
- x) Memo No.74911/Assn.I(1)2005 Rev. (Assn1) Department, A.P., Hyderabad, dated 19.01.2006.
- xi) W.P.No.2493 of 2006 of Hon'ble A.P. High Court, dated 23.01.2007.
- xii) Memo No.33571/Assn.I(2)/2011-2 Rev. (Assn2) Department, A.P., Hyderabad, dated 05.13.2012.
- xiii) G.O.Ms.No.571 Revenue (Assn1) Department, dated 14.09.2012.
- xiv) Circular instruction No.B2/1543/2012 of A.P., Hyderabad, dated 18.03.2012."

Sri K. Durga Prasad, learned counsel for respondent No.7 submits that the tank has already been restored and the appellants are no more in possession of the lands in dispute.

In view thereof, learned counsel for the appellants does not press this appeal and seeks liberty to the appellants to make representation to respondent No.5 for allotment of alternative land for cultivation and direction to respondent No.5 to consider and decide their representation sympathetically.

Having considered over all facts and circumstances of the case

and the observations made by learned single Judge in the impugned order and so also the submission of learned counsel for respondent No.7, we are satisfied that the following order shall meet the ends of justice:

“It is open to the appellants to make a representation to respondent No.7 within a period of 15 days from today seeking allotment of alternative lands for cultivation. If any such representation is made, respondent No.5 shall consider the same sympathetically.”

With these observations, the writ appeal is disposed of.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

12-08-2015

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