

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 11885 of 2011

ORDER:

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Heard learned counsel for the petitioners and Government Pleader for Revenue. With the consent of both the parties, the main writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the inaction of the respondents in issuing permanent patta in respect of the lands admeasuring Ac.38.00 in Sy.No.11 of Mallavalli (V), Bapulapadu Mandal, Krishna District which is in their occupation and trying to evict them without following the due process of law, as illegal, arbitrary and violative of principles of natural justice; and consequently direct the respondents to take necessary action for considering the application of the petitioners for issuance of permanent patta.

By an order dated 26.04.2011 this Court while issuing notice before admission ordered status-quo existing as on that date shall be maintained.

The averments in the affidavit filed in support of the writ petition would show that in Mallavalli Village there is a government poramboke land which was undomesticated. The father of the first petitioner by name S.Krishnamurthy initially occupied the land admeasuring Ac.38.00 about 50 years back and the said land was recognized under "D" Form patta by the Tahsildar during the period, after looking into the documents issued by the Nawab of Mallavalli Village. During his life time, the said Krishna Murthy paid taxes to the revenue authorities. After the death of Krishna Murthy, S.Rajababu, who is the only son of Krishna Murthy succeeded to the said land. The petitioners are inter-related to each other and they claim to be in possession of the said land. It is stated that by spending huge amount the petitioners made the land fit for cultivation and the revenue authorities also collected taxes from them regularly. It is stated that in the revenue records the name of S.Rajababu is shown as occupant of the land admeasuring Ac.20.00 in Sy.No.11. The first petitioner

made an application to the Tahsildar on 24.12.1995 for incorporating his name in the revenue records and the same was considered. In the month of February, 2010, the first petitioner made a representation before the revenue authorities to issue permanent patta in his favour. Till date no orders are passed on the said representation. While things stood thus, the respondents started taking coercive steps to evict the petitioners from the lands, hence, the writ petition.

Respondents filed counter denying all the averments made in the affidavit except those which are admitted in the counter. It is stated in the counter that the land admeasuring Ac.1460.06 cents in R.S.No.11 of Mallavalli Village is classified as Adavi Poramboke according to the revenue records, and the Forest department vide proceedings No.1153/2011-V6 dated 08.04.2011 declared that the land is a minor circuit block in government land and it is not belonged to Forest Department. The petitioners are non-residents of Mallavalli Village and the name of the first petitioner was not noted in the column No.3 Adangal. Only an enjoyment survey was conducted during the year 2009 to identify the encroachments for the use of public purpose. At the time of survey, they noticed 292 encroachers and none of the petitioners were noted in the encroachers list. It is stated that since the petitioners were never in possession of the land they are not entitled for any patta. In view of the above, it is stated that there are no merits in the petition and the same is liable to be dismissed.

No reply was filed to the counter filed by the Respondents in the year 2011.

A perusal of the record would show that there is a claim and rival claim made by both the parties with regard to possession of the property. The Government Pleader submits that the question of interfering with the possession of the petitioners would not arise when they are not in possession of the land. On the otherhand, the learned counsel for the petitioners submits that the petitioners are still in possession of the property.

Without going into the merits of the case and having regard to the circumstances stated above, the writ petition is disposed of directing the respondents not to dispossess the petitioners without following the due process of law, if really they are in physical possession of the property as alleged by them. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ
Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

28.09.2015

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