

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.8212 of 2012

ORDER:

This writ petition is filed seeking the following relief/s:

'....to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of mandamus to declare the impugned order Notice issued by the 2nd respondent bearing Rc.A/40/2012 dt.22-2-2012 demanding the petitioners to surrender the pattadar pass book and title deeds in respect of the land in Sy.No.35, admeasuring Ac.18.61 cents situated at Katriki village, Alur Mandal, Kurnool District, without affording me reasonable village, Alur Mandal, Kurnool District, without affording me reasonable opportunity and without issuing any show cause notice, as being illegal and arbitrary and consequently set aside the same, and to grant such other relief or reliefs.....'

[Reproduced verbatim]

2. I have heard the submissions of the learned counsel for the petitioners, the learned Government Pleader for Endowments (AP) appearing for the 3rd respondent, the learned Government Pleader for Revenue (AP) appearing for the 2nd respondent and the learned Standing Counsel appearing for the 4th respondent. I have perused the material record.

3. The case of the writ petitioners as set out in the writ petition, in brief, is this:

The 2nd petitioner and his father are working as Archakas in Sri Ranga Swamy and Sri Venkateswara Swamy Temple at Katriki village of Alur Mandal and are rendering services in the said Temple being successors of their ancestors, who had earlier served as Archakas in the said Temple. In recognition of the services rendered by the ancestors, the subject land admeasuring Ac.18.61 cents at Katriki village in Sy.No.35 was converted as patta land from inam land in the RSR (Re-settlement Register) and pattadar pass book was issued to P. Rangamma, the grand mother of the 2nd petitioner, in the year 1954. On her death, the 2nd petitioner and his father had succeeded to the subject land and the then Tahasildar of Alur Mandal after conducting an enquiry into the matter had issued the pattadar pass

books and title deed books in favour of the 2nd petitioner and his father for an extent of Ac.9.30 cents and Ac.9.31 cents respectively about 12 years back and that accordingly they are in peaceful possession and enjoyment of the lands without any interruption or interference from any quarter and that they have also availed bank loans and made the lands fit for cultivation and that while so, the 2nd respondent herein at the intervention of some persons having vested interests to grab the land and by taking advantage of the weakness of the petitioners, who are the Archakas, had issued the notice dated 22.02.2012 demanding the petitioners to surrender the pattadar pass books and title deed books in respect of the subject land and that before issuing the said notice, no show cause notice was issued and no opportunity was afforded to offer the explanation, if any, and that the impugned notice was straight away issued without any jurisdiction and that, therefore, the said notice is illegal and arbitrary and is liable to be set aside.

4. The 2nd respondent had filed a counter affidavit resisting the writ petition *inter alia* stating that the subject land is endowed to the Temple and is an Endowment property and that the Chief Commissioner of Land Administration, State of A.P. by circular *vide* No.C 1739/2011 dated 29.12.2011 had directed for conduct of Revenue Sadassulu and at the time of the review and reconciliation of records of the department with the revenue records, it was noticed that though the land belonged to the Endowment department and pattadar pass book was earlier issued in the name of the Deity in the year 2011 by the then Tahasildar, the writ petitioners, who are Archakas of the Temple and who are enjoying the land by doing service to the Temple had fraudulently obtained fake pattadar pass books at khata no.191 and 192 of the village and that the Revenue Divisional Officer ('the RDO', for brevity), Adoni had cancelled the pattadar pass books issued to the Archakas by issuing proceedings no.2225/2011 dated 26.03.2012 and that earlier a notice was issued to the Archakas dated 22.02.2012 for surrendering the pattadar pass books and title deed books obtained by them in respect of the land, which belonged to the Temple, and that the material allegations in the writ petition contrary to the above facts are all false and that

as the pattadar pass books and title deed books issued to the Archakas were already cancelled by the RDO *vide* his orders dated 26.03.2012, the writ petition is devoid of merit and is liable to be dismissed.

5. The Trustee of the 4th respondent Temple had filed a counter affidavit, more or less urging the contentions, which are similar to the contentions raised by the 2nd respondent and had *inter alia* submitted that he is continuing as a trustee of the Temple and that the petitioners had obtained pattadar pass books and title deed books in their names in respect of the Temple land illegally and had raised loans from Andhra Pragathi Grameena Bank, Alur by depositing the said pass books and title deed books as security and that as the petitioners have no right, title and interest over the land, the land being a service inam, they are not entitled to obtain pass books and title deed books and mortgage the documents with the bank and that the acts of the petitioners in obtaining pass books and title deed books in respect of the Temple land is *mala fide* and is intended to knock away the Temple property and that, therefore, the writ petition is liable to be dismissed.

6. In the reply affidavit, the writ petitioners while reiterating their contentions, which are already urged in the writ petition, had *inter alia* stated that they had challenged the cancellation orders dated 26.03.2012 of the RDO by an appeal before the Joint Collector, Kurnool and the same is pending and that the said orders of cancellation are passed without following the mandatory procedure contemplated under law and against the principles of natural justice and are, therefore, vitiated.

7. At the time of hearing, the learned counsel for both the sides made submissions in line with the pleadings, which are stated supra, in detail.

8. I have carefully perused the pleadings of the parties and the material papers and I have bestowed my attention to the facts. I have given earnest consideration to the submissions.

9. Admittedly, the land is an endowed property and belongs to the Temple. Though, originally, the land was a service inam, it is not in dispute

that in view of the provision of Section 144 of the A.P. Charitable and Hindu Religious Institutions & Endowments Act (Act 30 of 1987), the service inam in respect of the endowed land and the possession of such land allotted to the Archakas in the capacity of service inamdars stood abolished with effect on and from the commencement of the said Act. However, the learned counsel for the writ petitioners would submit that the salaries of the Archakas were not determined and that the Temple is a 6C Temple and that the Archakas are enjoying the income from the land towards their salaries as no salaries are yet determined and that, therefore, the pattadar pass books and title deed books are not liable to be cancelled and that they are entitled to continue in possession of the subject lands till a decision is taken to resume possession by determining the salaries in accordance with procedure established by law and that their possession is not to be disturbed except in accordance with the procedure established by law. On the other hand, the learned Government Pleader and the learned Standing Counsel would submit that when the fact that the property is endowed and belongs to the Temple is admitted, the pattadar pass books and title deed books shall be issued only in the name of the Deity of the temple and not in the names of the persons in occupation and enjoyment as service inamdars and that the pattadar pass books and title deed books of the petitioners were already cancelled and that the present writ petition challenging the show cause notice issued to surrender the same has become infructuous and that even according to the averments in the reply affidavit of the writ petitioners they have already filed an appeal challenging the order dated 26.03.2012 of the RDO whereby the pattadar pass books and title deed books in the names of the petitioners were cancelled and that, therefore, the petitioners can ventilate all their grievances and raise all the contentions, which are available to them and which the law permits, before the said appellate authority and that giving liberty to them to do so, the writ petition may be dismissed. It is also to be noted that mere cancellation of the pass books and title deed books by itself does not lead to an inference that the physical possession of the Archakas/petitioners over the subject land is being interfered with. It is needless to mention that the Archakas/petitioners are entitled to either the salaries as may be determined in accordance with

the procedure established by law or to enjoy the usufruct/income from the lands in lieu of their salaries.

10. Having regard to the reasons, this Court is of the well considered view that the writ petition assailing the show cause notice dated 22.02.2012 is not maintainable in view of the subsequent orders dated 26.03.2012 of the RDO cancelling the pattadar pass books and title deed books issued in the names of the petitioners/Archakas and giving them liberty to prefer appeal under Section 30 of the Act; and, in view of the further fact that the petitioners have already preferred an appeal assailing the said orders of the RDO and the same is pending.

11. Viewed thus, this Court finds that the writ petition is liable to be dismissed.

12. Accordingly, the Writ Petition is dismissed, however, giving liberty to the writ petitioners to raise all the contentions, which are available to them and which the law permits in the appeal that is pending before the RDO. No costs.

Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

M. SEETHARAMA MURTI, J

15.12.2015

Vjl