

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 8928 of 2015

ORDER:

The petitioner seeks a writ of mandamus, declaring the action of respondents in trying to dispossess her from the land over an extent of Ac.2-59 cents in Survey No.347 of Medikoduru village and mandal, Guntur district, as illegal and arbitrary, and a consequential direction to the respondent authorities not to dispossess her from the subject land.

2. Brief averments in the writ affidavit are that the petitioner is the widow of one Late Shaik Adam. She states that her husband worked in the British Army as well as in the Indian Army. He worked in the Indian Army from 1959 to 1970 and was awarded Raksha Medal and he was wounded in Indo-China War. While working in the Army, he sought for assignment of land for his livelihood and the Tahsildar, Satenapalli, by proceedings dated 26.05.1966 issued temporary permission to cultivate an extent of Ac.2-59 cents in Survey No.347 of Medikonduru village and Mandal, Guntur district, pending sanction of conversion proposals and permanent assignment. The assignment was renewed by proceedings dated 24.07.1969 in Rc.No.3093/69 and in the same proceedings, the Revenue Inspector, Phirangipuram was directed to send proposals for grant of permanent patta. After the demise of her husband, she is enjoying the land by raising crops with the help of her children. To support her case, she placed on record the proceedings of the Tahsildar, Sattenapalli in Rc.No.3093/69 dated 24.7.69, Receipt No.724569 relating to Land Cist (Land Tax Receipt), Receipt No.1342930 (Receipt issued for payment of Land Tax).

3. Learned counsel for the petitioner submits that the provisions of the A.P. Land Encroachment Act, 1905, cannot be invoked against the petitioner as the husband of the petitioner came to be granted patta and in that view of the matter, if at all any provisions are applicable; the provisions relating to A.P. Assigned Lands are required to be considered.

4. When the matter came up for admission on 10.04.2015, the learned Government Pleader sought time to get instructions. Today, on instructions, he submits that the patta granted in favour of the petitioner is only a temporary patta and the same is evident from the very material papers filed by her. He further submits that at the time of granting patta to the husband of the petitioner, it was not noticed that the land in

respect of which the patta was granted is, in fact, a water body. As it is a water body and as it is the duty of the Government to protect the water bodies in terms of the law laid down by the Hon'ble Supreme Court, the authorities are taking steps. However, the learned Government Pleader submits that, as on date, no notice as such has been issued and no proceedings have been initiated and he assures the Court that the authorities shall neither interfere with the possession of the petitioner nor dispossess her without following due process of law as applicable.

5. Having considered the rival submissions and taking into consideration the assurance of the respondent authorities through the learned Government Pleader that the petitioner's possession and enjoyment will not be interfered with, in any manner, without following due process of law as applicable, the writ petition can be disposed of with a direction to the respondent authorities to give adequate notice and opportunity to the petitioner, in accordance with law, in case they desire to resume the land in question.

6. Accordingly, the writ petition is disposed of. No order as to costs. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

CHALLA KODANDA RAM, J

13th April, 2015

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