

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.860 of 2014

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Between:

1. Goruntla Sreedhar and others.

PETITIONERS

AND

1. The State of Andhra Pradesh, rep. by its Principal Secretary, Department of Revenue, Secretariat, Hyderabad, and others.

RESPONDENTS

ORDER:

This writ petition is filed seeking the following relief:

“...to issue any writ or order or direction more particularly one in the nature of writ of mandamus, by calling records, declaring the acts of the respondent No. 3, 4 and 5 in conducting surveys of the land situated in Sy.No.107/2, situated in Thimmarajupalem village, Parchuru Mandal, Prakasam Dist., belonging to the petitioners without any notice or authority, as illegal, arbitrary, null, void and in violation of Article 14 and 300 A of the Constitution of India and consequently direct the respondent No. 1 to 2 to cause an enquiry against the illegal acts of the respondent No. 3 to 5....”

The petitioners claim to be inherited different extents of land in Sy.No.107-2 of Thimmaraju Palem, Parchuru Mandal, Prakasam District, from their ancestors and cultivating the same since from 70 to 80 years, since then they are paying land revenue and tax. The grievance of the petitioners is that at the instance of some political leaders, who are inimical to them, the 3rd respondent is interfering with their peaceful possession and enjoyment of the land and threatening to dispossess them alleging that the subject land is situated in Tank bed. Hence the petitioners approached this Court by way of the present writ petition.

When the matter was came up for admission on 17.01.2014, this Court while issuing notice before admission, granted interim direction not to dispossess the petitioners from the land in question for a period of eight weeks, and the said interim order was extended from time to time. A vacate stay petition being W.V.M.P.No.3597 of 2014 has been filed seeking vacation of the interim order.

Heard learned counsel for the petitioners, learned Assistant Government Pleader for Revenue (A.P.) for respondents 1 to 3 and 5 and learned Assistant Government Pleader for Endowments for respondent No.4, and with their consent, the matter is taken up for final disposal.

A counter affidavit is filed along with the vacate stay petition by the 3rd respondent-Tahsildar, Parchur Mandal, Prakasam District. It is stated in the counter that the land in Sy.No.107/2 of Thimmarajupalem hamlet of Parchur Mandal is classified as Tank Poramboke in the Revenue Accounts and most of the Tank is being encroached and cultivated by some of the persons in the village. As per the classification it is a prohibited one. The title and ownership of the entire land lie with the Government. On a petition filed by the Sarpanch, Gram Panchayat, Thimmarajupalem to measure the tank, the Mandal Surveyor got made a tom-tom in the village and measured the tank situated in Sy.No.107/2 Ac.8.84 and classified the same as Cheruvu Paraka Poramboke, which is vested with the Government, and that the petitioners have no right title over the said property, and prayed for dismissal of the writ petition.

Form the sketch furnished by the 3rd respondent it is evident that the actual Tank is situated in Sy.No.108. It is an admitted and undisputed fact that the

petitioners are in possession and enjoyment of the property, which is evident from the revenue receipts filed from the year 1982 onwards by the petitioners along with the writ petition. It is also not disputed that the petitioners are in possession of the land in question for a long period and have been cultivating the same since then. However, it is not denied by the petitioners that they do not have any right title over the property.

As can be seen from the pleadings, the claim is only based on the long possession of the petitioners over a period of 70 to 80 years either by themselves or by their ancestors. Steps, which are sought to be taken by the respondents as contended by the learned Government Pleader, is to protect the Tank bed land and the same is not disputed by the petitioners. On the one hand the petitioners claim that the land is situated adjacent to the Tank bed but not form part of the Tank, on the other hand, the respondent-authorities claim that the land is Tank bed land. These are all matters which require evidence.

In those circumstances and considering the fact that the petitioners claim to be in possession of the land and cultivating the same for a long period, the possession and enjoyment of the petitioners cannot be disturbed without following due process of law. However, it is open for the respondent-authorities to initiate appropriate proceedings for recovering the land from the petitioners by initiating appropriate proceedings. It is needless to mention that the petitioners are entitled to fair opportunity, if any action is taken by the respondents. It is also open for the petitioners to take necessary steps to protect their rights and for which purpose they are at liberty to take legal recourse as may be advised.

With the above directions, the writ petition is disposed of. No costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

CHALLA KODANDA RAM, J.

16th April, 2015

Js.