

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.27058 OF 2006

ORDER:

The present writ petition came to be filed seeking issuance of writ of *mandamus* declaring the action of respondents 1 and 2 in not evicting the 4th respondent while granting assignment vide file No.F DIS (B)/329/F1414, dated 24.01.2005 as illegal and arbitrary and consequently, direct the respondents to hand over the original patta pass book and vacant possession of the land admeasuring Ac.1.87 cents in Sy.No.829/5 of Tatiparthi village, Podalakuru Mandal, Nellore District.

2. The averments in the affidavit filed in support of the writ petition are as under:

The petitioner being a landless poor person had been eking out her livelihood by cultivating the land to an extent of Ac.1.87 cents in Sy.No.829 of Tatiparthi village, Podalakuru Mandal, Nellore District and she had been in possession and enjoyment of the same since long time. As she is eligible for assignment of land, she made a representation for grant of assignment patta. While the matter stood thus, her husband was hospitalized due to ill-health and during that period, she has not cultivated the land. Taking advantage of the same, the 4th respondent, who is an influential person, encroached on to the land. When she went to the land, after the death of her husband, the 4th respondent has not allowed her to cultivate the land. When the petitioner approached the then Mandal Revenue Officer (MRO), he, after due verification, assigned the land admeasuring Ac.1.87 cents in

Sy.No.829/5 at Tatiparthi village, Podalakuru Mandal, Nellore District vide file No.F DIS(B)/329/F 1414, dated 24.01.2005 and also issued a patta pass book. While granting patta, the village Assistant, Tatiparthi village wrote the Survey Number as 857 instead of 829. On noticing the same, she approached the MRO, who took the original patta pass book and given her the Xerox copies stating that originals would be issued after rectification. But so far the petitioner has not received her original patta pass book as assured by him. Though patta has been granted, so far the land has not been surveyed and demarcated. The District Collector, on her representation, dated 26.04.2006, directed the MRO, Podalakuru, to take immediate action and send report, but the MRO has not taken any steps to evict the 4th respondent. It is further stated that it is an obligation under law that before assigning Government land, the official respondents shall evict the encroachers, then they should hand over vacant possession of the land to the beneficiaries and because of the illegal action of the official respondents in not taking steps to evict the encroacher i.e., respondent No.4 herein, she is unable to cultivate the land though assignment was granted on 24.01.2005. Hence the writ petition.

3. A counter came to be filed by the learned Government Pleader for Revenue stating that the petitioner herein was assigned land in Sy.No.857/3 and that she has no right over the land in Sy.No.829/5 as alleged in the petition. In support of the same, learned Government Pleader for Revenue filed documents along with the counter.

4. Heard the learned counsel for the petitioner, the learned Government Pleader for Revenue and the learned counsel for the

4th respondent.

5. Respondent No.4 placed on record the counter filed by the 2nd respondent in I.A.No.699 of 2004 in O.S.No.242 of 2004, who is the petitioner herein, wherein she is said to have stated that she acquired land to an extent of Ac.1.87 cents of Government land covered in Sy.No.857/3 of Tatiparthi village about 12 years ago and since then, she had been raising dry crops like black gram and green gram and eking out her livelihood.

6. From the above, it is clear that two different versions are put-forth by the parties. On one hand, the petitioner states that she was allotted land in Sy.No.829/5 and by mistake patta in Sy.No.857/3 was issued, which needs rectification. On the other hand, learned Government Pleader for Revenue as well as respondent No.4 states that the petitioner was assigned land only in Sy.No.857/3 and not in 829/5 as alleged.

7. The petitioner is said to have made representations to the District Collector, Nellore District on 26.04.2006 and on 02.12.2006. Insofar as representation, dated 26.04.2006 is concerned, an endorsement is made by the Collector directing the MRO, Podalakuru Mandal to take immediate action and to send report within a week.

8. In view of the above, MRO, Podalakuru village, Nellore District is directed to consider the representation, dated 26.04.2006, made by the petitioner before the District Collector, Nellore District and pass appropriate orders after giving opportunity to the petitioner and also to the 4th respondent, in

accordance with law, at the earliest, preferably within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition is disposed of. Consequently, Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

-

JUSTICE C. PRAVEEN KUMAR

Date:14.12.2015

INL