

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 15112 of 2011

ORDER:

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

The present writ petition came to be filed seeking to declare the action of respondents in not passing any orders in petition dated 01.09.2010 made for correction of plot numbers on the house site patta granted in favour of father of the first petitioner Kancharla Pedda Kasaiah, as illegal and arbitrary and consequently direct the respondents to correct plot numbers as per physical possession and enjoyment.

The averments in the writ petition are that the father of the first petitioner by name Kancharla Pedda Kasaiah was the elder brother of the second petitioner. All of them were living together. Since the second petitioner and his elder brother were houseless poor labourers, the then Tahsildar of erstwhile Yerragondapalem Taluk granted house site pattas admeasuring Ac.0.05 cents with plot No.39 in Survey No.51/2B3 of Yerragondapalem Village by assignment order in D.Form dated 16.05.1980 in the name of the deceased who was elder in the family. The second petitioner and the said Kasaiah constructed a thatched house therein and started living there. The second petitioner got water and electrical power supply with service No.4070 of Yerragondapalem. The said Kasaiah died intestate, leaving his only son (the first petitioner) to succeed to his portion of house property. As such, they were living together in the said house property. It is stated that in the recent Laila cyclone, the thatched roof of their house got damaged and hence the roof was substituted with asbestos sheets. Noticing the same, the fourth respondent issued proceedings dated 15.07.2010, calling upon the petitioners to remove the house and show cause as to why the patta granted should not be cancelled. Immediately, the petitioners approached the fourth respondent, requesting him to drop the proceedings. It is stated that the fourth respondent insisted to vacate the house within one week failing which he threatened the petitioners to demolish the house with the help of police force. Subsequently, the petitioners approached the first respondent requesting him to instruct the fourth respondent not to insist them to vacate their house. But there was no positive response from the first respondent. Aggrieved thereby, the second petitioner filed W.P.No.18176 of 2010 before this Court. In the said writ petition, this Court, passed an interim order dated 28.07.2010, directing the respondents therein not to take any steps for demolition of the house. Subsequently, on 29.10.2013, the writ petition was disposed of directing the petitioners to give a reply to the show cause notice issued by respondent No.4 on 15.07.2010. It is stated that inspite of giving explanation to the show cause notice, no orders are passed till date. While things stood thus, the second petitioner applied for layout plan on 24.08.2010 by paying requisite fee. In the layout, it was noticed that number of the plot belonging to the petitioner was shown as 26 and 39. But, the Tahsildar recorded only plot number 39 as the plot belongs to petitioner admeasuring only one cent, whereas, as per the layout, plot number 26, is shown as admeasuring four cents. Taking advantage of the mistake committed by the Tahsildar, the fourth respondent is said to have insisted the petitioners to vacate the house. The request made by the petitioners for rectification of error in recording plot number was not considered by the respondents.

Learned Government Pleader for Revenue, on instructions, opposed the petition contending that the petitioners were assigned only one cent in plot number 39, but, the petitioners encroached into plot number 26 and constructed thatched house beyond the extents granted to them.

It is to be noted that the present writ petition came to be filed seeking a direction to the fourth

respondent to dispose of the representation dated 01.09.2010 made for correction of plot numbers on the house site patta granted in favour of the father of the first petitioner. Therefore, the question as to whether the petitioners were holding plot Nos.26 and 39 cannot be decided at this stage. It is only the Tahsildar before whom the application is made, has to decide the same basing on the material available.

Without going into the merits of the case, the writ petition is disposed of directing the fourth respondent to pass orders on the representation dated 01.09.2010, said to have been made by the petitioners, if the same is still pending, within eight (08) weeks from the date of receipt of a copy of this order, in accordance with law. No costs.

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

JUSTICE C. PRAVEEN KUMAR

17.08.2015
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