

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.720 OF 2011

O R D E R:

This Writ Petition is laid challenging the notice dated 27.12.2010 issued by the 2nd respondent-Joint Collector, Nellore.

The facts are not in dispute. The petitioners are all assignees of land an extent of Ac.3-00 cts., each situated in Sy.No.521/C of Kattuvapalli village, Manubolu Mandal, SPSR Nellore District as detailed below:

Sl. No.	Name of the petitioner or predecessor	Old Sy.No.	New Sy.No.	Extent Ac. Cts.	Proceedings & Date
1	Sannareddy Vanamma	521-CP	863-1	3-00	F.Dis.No.23/1407, dt.10.11.1997
2	Duvvuru Navaneethamma	521-CP	850-2&851-5	3-00	F.Dis.No.139/1406, dt.9.12.96
3	Sannareddy Vajramma	521-CP	850-4	3-00	F.dis.No.140/1406, dt.10.11.97
4	Duvvuru Janardhan Reddy (since died his LR & daughter Magunta Usha)	521-CP	851-3	3-00	F.dis.No. /1407, dt.10.11.97
5	Kamireddy Sudheer Reddy	521-CP	850-3	3-00	F.dis.No.133/1406, dt.09.12.96
6	K.Hari Kumar Reddy	521-CP	850-5	3-00	F.dis.No.143/1406, dt.09.12.96
7	Duvvuru Santhamma (since died her LR and son Duvvuru Rajagopal Reddy)	521-CP	851-4	3-00	F.dis.No.27/1407, dt.10.11.97

The impugned notice was issued at the instance of one Marella Rajendra Babu-8th respondent, claiming himself to be a District Legal Aid Service Agent on behalf of respondent Nos.4 to 7. The 8th respondent made a complaint to the 2nd respondent-Joint Collector alleging the then Tahasildar by name Krishnamurthy is favouring the forward community people by trampling the rights of the Back Ward Communities and had

helped in O.S.No.101 of 2000. He further made a request to the 2nd respondent that action may be taken to get the judgment in O.S.No.101 of 2000 cancelled and also take necessary steps. Acceding to the request of the 8th respondent on behalf of the respondents 4 to 7, the Joint Collector issued notice to petitioners asking them to produce the documents to support their allegations and to protect their rights. The petitioners challenged the said notice alleging that the Joint Collector cannot sit over the judgment in O.S.No.101 of 2000 and has no jurisdiction and power to nullify the judgment and decree in O.S.No.101 of 2000, which judgment is in favour of the petitioners. The various other aspects in relation to the suits filed by the petitioners as well as the respondents on the petitioners are also mentioned. The sum and substance of the entire submission of the petitioners is that the suits filed by them are decreed and the suits filed by the respondents are dismissed. In other words, there are subsisting injunction orders in favour of the petitioners and the Joint Collector could not have sit in appeal and propose to nullify the orders of the Civil Courts.

A counter affidavit has been filed by the 3rd respondent-Tahasildar, wherein it has been admitted that the petitioners were granted pattas, likewise even respondents 4 to 7 were also granted pattas in the same survey number and the pattas granted in favour of the respondents 4 to 7 were cancelled and the land came to be resumed by proceedings dated 15.02.2001. In the counter affidavit it has been stated further that the revenue officials not being parties to the suit they have nothing to say. The allegation that the petitioners are being dispossessed and are being interfered with, is denied.

On behalf of the respondent Nos.4 to 7, respondent No.4 filed a detailed counter admitting the fact that the petitioners and the respondents were granted pattas in the same survey number and as the petitioners were interfering with the peaceful possession and enjoyment of the land assigned to them they were forced to file O.S.No.451/2000 on the file of Junior Civil Judge, Gudur, for grant of permanent injunction and subsequent to the filing of the suit as the petitioners has stopped their interference they did not pursue the suit, as a result of which the suit was dismissed for default. It is also a categorical averred that in O.S.No.101 of 2000 the respondent Nos.4 to 7 were not party respondents and the petitioners under the guise of said decree tried to encroach into the lands of the respondents. In those circumstances respondent No.8 approached the Joint Collector for issuance of prohibitory orders. In the context of the representation made by the 8th respondent on their behalf, the Joint Collector proposed to conduct an enquiry and desired to examine the documents and issued notice to the petitioners. There is no illegality in issuing the said notice, and it is only to prevent the 2nd respondent from conducting an enquiry, petitioners rushed to this Court with unclean hands. It is further averred that unless and until a detailed enquiry is conducted the principal facts will not be asserted. With the said averments they prayed for dismissal of the Writ Petition.

Heard the learned counsel for the petitioners as well as the learned Assistant Government Pleader for respondent Nos.1 to 3 and Sri Shaik Jilani, learned counsel for the respondents 4 to 7.

At the outset, a perusal of the notice reveal that a notice

was not issued to the petitioners. In that view of the matter when the notice was not issued to the petitioners, they have no cause of action and in that view of the matter the contention of the respondents merely to prevent the enquiry being conducted by the Joint Collector with respect to the allegations made by them cannot be brushed aside easily. Further, even from the material documents filed by the petitioners the fact that there at that time a tense situation prevailed in the village cannot be ruled out. The dismissal of the suit for non-prosecution filed by the respondents in no way would advance the case of the petitioners and likewise decreeing of the suit in O.S.No.101 of 2000, where the respondents 4 to 7 are not being party defendants also does not advance the case of the petitioners in any way. In a way, the claim of the petitioners is the classic case of much ado about nothing. Now, in the light of the categorical assertion by the official respondents that the official respondents have not passed any orders cancelling the pattas or even issued any notice to the petitioners, the Writ Petition at best could have been filed on mere apprehension. In that view of the matter, there is no cause of action for the petitioners and as such Writ Petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs. The miscellaneous petitions pending, if any, shall also stand dismissed.

CHALLA KODANDA RAM, J

Dated:26.02.2015.

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