

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.20300 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“To issue appropriate writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents 2 and 3 in seeking evict the petitioner from his land to an extent of Ac.4.50 cents in Sy.No.103/2 and 268/1 Vide Patta No.40 situated at Nellipudi Village, Gangavaram Mandal, East Godavari District as wholly illegal, arbitrary and in violation of principles of natural justice and also violative of Art.14 and 21 of the Constitution of India and consequently direct the respondents 2 and 3 not to evict the petitioner from the above mentioned lands in the interest of justice”.

2. Heard Sri K.Venkatesh, learned counsel for the petitioner and the learned Government Pleader appearing for Respondents 1 to 3, apart from perusing the material available on record.

3. According to the petitioner, he is the owner and possessor of land to an extent of Ac.4.50 cents in Sy.No.103/2 and 268/1 vide Patta No.40 situated at Nellipudi village, Gangavaram mandal, East Godavari district and he inherited the said land from his ancestors. It is stated in the affidavit filed in support of the writ petition that the petitioner's grand father late Botta Ganiraju was granted Krushi Patta by the Mukhasadar of Nellipudi village about 50 years back and since then petitioner's family members have been in continuous possession and enjoyment of the said land. It is also stated that the subject property is situated in the scheduled area in East Godavari district and the petitioner herein is paying land revenue to the revenue authorities. According to the petitioner, as on today, he is in possession and enjoyment of the subject property. It is also the case of the petitioner that his possession is not in contravention of the provisions of A.P. Scheduled Areas Land Transfer Regulation, 1959 (Regulation No.1/59) as amended by Regulation No.1/70 and the

rules framed thereunder. It is further stated that the Village Revenue Officer, Nellipudi village has issued possession certificate dated 3.1.2015 certifying that the subject land is in continuous possession of petitioner's family members and in support thereof, the certificate dated 3.1.2015 issued by the Village Revenue Officer, Nellipudi village is placed on record by the petitioner.

4. In the present writ petition, the grievance of the petitioner herein is that even though there is no contravention of any provisions of A.P. Scheduled Areas Land Transfer Regulation, the respondent authorities came to the petitioner's property on 30.6.2015 and tried to evict the petitioner at the instance of the 4th respondent herein. According to the learned counsel for the petitioner, the said action on the part of the respondent authorities is without jurisdiction and without authority of law. It is also stated that the respondent authorities are also preventing the petitioner from cultivating the said land. In the above background, the present writ petition is filed.

5. On 6.7.2015, this Court while ordering notice to respondent No.4 and permitting the petitioner's counsel to take out personal notice to Respondent No.4 by registered post, granted an order of *Status quo*. No counter affidavit has been filed by the respondents, denying the allegations and averments made in the writ affidavit nor in the direction of justifying the impugned action of the respondents.

6. It is the settled and well established principle of law that no citizen of this country shall be deprived of his/her property, except in accordance with the procedure established by law as enshrined under Article 300-A of the Constitution of India. In the instant case, it is the categorical case of the petitioner herein that without issuing any notice, the respondent authorities are attempting to evict the petitioner from the subject property. The said action, in the considered opinion of this Court is arbitrary, illegal, unreasonable and violative of Article 14 and 300-A of the Constitution of India.

A.V.SESHA SAI, J

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W.P.No.20300 of 2015

18.8.2015

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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.20300 of 2015

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Between:

Botta Lovaraju Kumar

... Petitioner

and

The State of Andhra Pradesh,
Represented by its Secretary
Tribal Welfare Department, Secretariat,
Hyderabad and three others.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 18.8.2015

SUBMITTED FOR APPROVAL:

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THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

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| 1. Whether Reporters of Local Newspapers
May be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Their Lordship wish to see the
Fair copy of the judgment? | Yes/No |