

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

-
WRIT PETITION No.651 OF 2006
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ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue a writ of mandamus or any other of appropriate writ declaring the action of respondents in evicting the petitioner from land in Sy.No.101/2 of Somulagudem village, Palvanha Mandal, Khammam district as illegal, arbitrary, without jurisdiction without authority of law, violative of Art.14,19(1)(g), 21 and 300-A of Constitution of India or pass any other appropriate orders are deemed fit in the interest of justice.”

2. Heard Sri K.Jagadishwar Reddy, learned counsel, appearing for the petitioner and learned Government Pleaders for Revenue and Social welfare, appearing for the respondents.

3. Petitioner herein claims to be the owner and possessor of 8 acres of Agricultural Land in Survey No.101/2 of Somulagudem Village, Palvanha Mandal, Khammam District and his name is shown in the Record of Rights and the authorities issued Pattedar pass books in his favour under the provisions of A.P. Land in Rights and Pattedar Pass Books Act, 1971. According to the petitioner, he raised Mango Graden in the said land 22 years back and the total extent of the land is now covered by the Mango Garden. In the year 1992 proceedings under the Land Transfer Regulations were initiated stating that the petitioner herein purchased the land from one Goguloth Kanthamma and after filing explanation, the 2nd respondent/The Special Deputy Collector (Tribal Welfare), Palvanha, Khammam District, passed an order in Case No.291/92/PVC, dated 23.09.1992, dropping further proceedings in favour of the petitioner herein and according to the petitioner, the said order became final and no appeal is filed against the said order. Subsequently, the Special Deputy Collector (Tribal

Welfare), Palvancha, Bhadrachalam, issued a notice bearing LTR No.120/2003/PVC, dated 20.08.2003, asking the petitioner to appear before him on 22.09.2003 at 11.00 a.m., indicating an extent of Acres 2.28 guntas in Survey No.198/3 of Kammarigudem Village. In response, petitioner herein claims to have submitted a letter dated 22.09.2003 stating that he does not own any land in Survey No indicated therein and he has nothing to do with the land in Survey No.198/3. Petitioner herein pleaded ignorance of the further proceedings pursuant to the said notice dated 20.08.2003.

4. It is alleged in the writ affidavit that the staff of the 1st respondent came to his Mango Garden in Survey No.101/2 and asked him to vacate the same by showing the order dated 22.09.2003 in LTR Case No.120/2003/PVC. It is further pleaded that when the petitioner pointed out that the said order does not pertain to the land in Survey No.101/2, the staff of the

1st respondent informed the petitioner that the 2nd respondent directed them to evict the petitioner from his land in Survey No.101/2 of Somulagudem Village without any eviction order. It is further alleged that when the petitioner requested them to furnish a copy of the order dated 22.09.2003, the same was not issued. Questioning the action of the authorities in seeking to evict the petitioner from his land in Survey No.101/2 of Somulagudem Village, in the guise of the order bearing LTR No.120/2003/PVC, dated 22.09.2003, which pertains to Survey No.198/3, the present Writ Petition came to be filed.

5. This Court initially on 10.01.2006 granted interim direction directing the respondents not to dispossess the petitioner from land in Survey No.101/2 of Somulagudem Village, Palvancha Mandal, Khammam District. Subsequently, while ordering '*Rule Nisi*' on 10.04.2006, the said interim order was extended until further orders and the same was made absolute on 09.03.2007.

6. No counter has been filed till date, despite pendency of this Writ Petition for more than 8 years.

7. As evident from the pleadings available on record, the case of the petitioner precisely in the present Writ Petition is that even though the proceedings initiated against the petitioner were dropped as long back as on 23.09.1992, the respondent authorities in the guise of the order dated 22.09.2003, which admittedly does not relate to Survey No.101/2, are seeking to evict the petitioner. In the absence of any counter, denying the said allegation, the same is required to be taken as true.

8. In the considered opinion of this Court, the said action on the part of the respondent authorities is highly illegal, arbitrary and unreasonable. Therefore, the said action is liable to be deprecated.

9. For the aforesaid reasons, writ petition is allowed, directing the respondents herein not to interfere with the possession and enjoyment of the petitioner in respect of land pertaining to Survey No.101/2 of Somulagudem Village, Palvantha Mandal, Khammam District, however, this order does not preclude the respondent authorities to act in accordance with the law.

10. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

15.12.2015
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