

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.1544 OF 2015

ORDER:

This writ petition is filed by the petitioner seeking to declare the proceedings of District Collector and District Magistrate, West Godavari, Eluru-2nd respondent dated 23.08.2014 in Roc.No.34/3235/2014 according sanction for giving advance possession for the allotment of land in an extent of Ac.0.25 cents in R.S.No.204 of Sitharamapuram Village to APEPDCL for the construction of 33/11 KV Substation, which has been in the petitioner's peaceful possession and enjoyment and part of the assigned land in an extent of Ac.0.84 cents, in Old R.S.No.7 and new R.S.No.204, Sitharamapuram Village, as illegal, arbitrary and violation of cannons of natural justice, Article 21 and 300(A) of the Constitution of India and Section 7 of A.P. Land Encroachment Act, 1905 (for short, 'the Act') and also against the Provisions of A.P. Assigned Lands (Prohibition of Transfers) Act.

It is the case of the petitioner that in the revenue records, Sy.No.204 of Sitharamapuram Village, Narsapur Mandal was said to be classified as Poramboke land. Permission was granted by the District Collector for construction of 33/11 KV Substation in an extent of Ac.0.25 cents in Sitharamapuram Village subject to consent from the irrigation department.

The grievance of the petitioner is that in fact she is in possession and enjoyment of the land over an extent of Ac.0.84 cents which was assigned to her mother in the year 1984 and on the demise of her mother, the petitioner has been in possession and enjoyment of the same. The petitioner contends that in the guise of taking the land

in Sy.No.204, respondents are encroaching into Sy.No.7. It is the specific case of the petitioner that when Sy.No.7 co-relates to new Sy.No.204 and without verifying the same, the respondents are trying to interfere with the possession and proceeding with the construction of the Substation. The petitioner had also submitted a representation and raised objection for the proposal of construction of Substation in her land.

On the other hand, Sri S. Srinivasa Rao, learned Assistant Government Pleader, on receiving instructions, from the Tahsildar, disputes the allegations of the petitioner and submits that as per the very material documents filed by the petitioner, the Sy.No.7 consists of Ac.1.48 cents and the land is situated in Sitharamapuram Village in Rajugari Thota Gram Panchayat area. He further submits that the Sy.No.204 and Sy.No.7 are approximately over a distance of about 3 kilometers. In that view of the matter, petitioner has no manner of right with respect to the land in Sy.No.204.

In the light of the rival submissions and considering the fact that what has been challenged before this Court is only proceedings dated 23.08.2014, petitioner cannot have any grievance with regard to the land in Sy.No.204, Sitharamapuram Village of Narsapur Mandal being handed over for construction of 33/11 K.V. Substation. A close perusal of the very proceedings does not disclose any thing inimical towards the interest of the petitioner. As a matter of fact, the petitioner does not have any grievance so far as the proceedings of the District Collector or the concerned except to assert that the land is said to have been earmarked for construction of the Substation is infact in Sy.No.7 and not in Sy.No.204 of Sitharamapuram Village. However, this aspect is being denied by the official respondents. I also find that the petitioner has already filed a suit in O.S.No.75 of 2014 on the file of the Principal Junior Civil Judge, Narsapur against Adabala Ayyappa Naidu and two others. The Assistant Divisional Engineer who was

shown as 3rd defendant in the suit is also joined as the 6th respondent in the present writ petition. Petitioner submits that there is an injunction against the 6th respondent in I.A.No.584 of 2014 which was filed in O.S.No.75 of 2014 by the petitioner/plaintiff therein. The civil proceedings are independent of the prayer in the writ petition. Subject to the orders in I.A.No.584 of 2014, the respondents are at liberty to act and deal with the land in Sy.No.204 of Sitharamapuram Village. Considering the grievance of the petitioner that the old Sy.No.7 is the present Sy.No.204 of Sitharamapuram Village, before proceeding further, the 3rd respondent shall once again verify the matter with regard to submissions made by the petitioner and confirm that the Sy.Nos.7 and 204 are two different distant survey numbers and they are overlaped.

With the above observations, the writ petition is disposed of. No order as to costs. Miscellaneous Petitions, if any pending in this writ petition shall stand closed.

JUSTICE CHALLA KODANDA RAM

Date:06.02.2015

Gk.

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

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