

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.19456 of 2015

BETWEEN

Shaik Shabirunnisa Bi

... PETITIONER

AND

The State of Andhra Pradesh, Rep. by its Principal Secretary (Department of Revenue), A.P. Secretariat Building, Hyderabad and others.

...RESPONDENTS

The Court made the following:

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ORDER:

Heard.

2. Petitioner had earlier approached this court in W.P.No.8928 of 2015 alleging that the respondent-Mandal Tahsildar, is trying to dispossess her from the land in survey No.347 to an extent of Ac.2-59 cents of Medikonduru Village & Mandal, Guntur District, and sought direction against the said respondent not to interfere with her possession. The said writ petition was heard and disposed of by this court by order, dated 13.04.2015. Paragraph 5 of the order, which is operative, is extracted hereunder:

“Having considered the rival submissions and taking into consideration

the assurance of the respondent authorities through the learned Government Pleader that the petitioner's possession and enjoyment will not be interfered with, in any manner, without following due process of law as applicable, the writ petition can be disposed of with a direction to the respondent authorities to give adequate notice and opportunity to the petitioner, in accordance with law, in case they desire to resume the land in question."

In pursuance of the said direction, petitioner was given a notice dated 11.06.2015 by the office of the Tahsildar, Medikondur alleging that she was found encroached on the Government land where the tank is required to be dug under water-tree programme and petitioner was called upon to produce the relevant documents within seven days. Petitioner thereafter filed a detailed reply to the said notice on 15.06.2015 placing strong reliance upon the cist receipts issued and the possession certificate. The present impugned order was thereafter passed by the Tahsildar in the form of an endorsement dated 23.06.2015, wherein the explanation of the petitioner was also considered and on finding that petitioner has encroached on a tank poramboke land, the said land was resumed.

3. Petitioner questions the said order on the ground that she can never be described as an encroacher when she was given possession of the land temporarily pending sanction of conversion proposals and permanent assignment. Proceedings of the then Tahsildar, Satenapalli, dated 26.05.1966 and 24.07.1969, are produced along with the writ petition. It is also stated that no provision of law is referred either in the notice or the impugned endorsement and, as such, the impugned order does not refer to the statute under which the said action is taken by respondent No.3. Finally, learned counsel submits that petitioner, being a widow of ex-servicemen, cannot be dispossessed after 50 years of possession.

4. I am unable to accept any of these contentions, firstly, as orders of this court, extracted above, have attained finality, which itself permits the Tahsildar to issue notice, give opportunity to submit explanation, and then pass appropriate orders. The said directions having complied with, petitioner, therefore, cannot turn round and question the proceedings on the ground of jurisdiction. Secondly, notice given to the petitioner itself alleged that petitioner has encroached on a

Government land and she has filed a detailed explanation and it is not as if that the petitioner is, for the first time, surprised with the stand taken by the Tahasildar. Moreover, the impugned endorsement also shows that the land claimed by the petitioner is a part of tank poramboke and is in prohibited category for assignment.

5. Paragraph 3 of the impugned endorsement also gives additional reasons for resuming the land and finally states that the encroached land by the petitioner is thus liable to be resumed and is resumed.

The proceedings, therefore, are clearly referable to the provisions of the Land Encroachment Act, especially, as the orders relied upon by the petitioner dated 26.06.1966 and 24.06.1969 are both temporary directions on ek-saal basis i.e., for one year and no permanent assignment was ever made. I, therefore, do not find any reason to interfere with the impugned order especially as petitioner has remedy of appeal. As the learned counsel for the petitioner pressed the writ petition, the same is disposed of merits.

Writ petition is, accordingly, disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

June 30, 2015

Note:-

Furnish copy by tomorrow.

{B/o}

Lmv