

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 14572 of 2011

ORDER:

Heard the learned counsel appearing for the petitioners and learned Government Pleader for respondents. With the consent of both the parties, this Writ Petition is disposed of at the admission stage.

The present Writ Petition came to be filed seeking issuance of a writ of mandamus declaring the action of the respondents/authorities in interfering with the petitioners property admeasuring an extent of 736 sq. yards with Door No.6-7-23, in 6th ward, 7th block situated in Lakshmi Ananthasagaram village @ Agraharapeta of Nayudupeta Gram Panchayat, S.P.S.R. Nellore District, as illegal, arbitrary and contrary to the provisions of the Estates (Abolition and Conversion into Ryotwari Act), 1948.

The averments in the affidavit filed in support of the Writ Petition reveal that the petitioners purchased land to an extent of 736 sq. yards in Dr.No.6-7-23, in 6th ward, 7th block, in Lakshmi Ananthasagaram village @ Agraharapeta of Nayudupeta Gram Panchayat vide Registered Document bearing No.1435/2011, registered in the office of Sub Registrar, Nayudupeta, Nellore District from the Republic Recreation Club on 20.04.2011. Their

vendor is said to have purchased the property vide Registration Doc.No.440/95 and 1168/85.

It is stated that since the date of purchase these petitioners were in possession of the property. While things stood thus, the respondents 3 and 4 who are the Mandal Revenue Officer, Nayudupeta and the authorities of Nayudupeta Gram Panchayat starting interfering with the possession of the property. On 16.05.2011 the Authorities are alleged to have claimed that it is a "Gram Kantham land" and the petitioners shall be evicted. When the respondents/Authorities visited the site, the petitioners showed the link documents to establish that it is not a Government land and that it is purely a private property. It is stated in the affidavit filed in support of the Writ Petition that the entire village is Grama Kantham and the entire land is constructed with various buildings and the village people are residing in the Gramakantam land since times immemorial. It is further stated that by virtue of the abolition of estates, the Gramakantams are treated as the property of the occupants and does not require any certificate under the Estates Abolition Act and the same would be recorded as Gramakantam in the Revenue records. It is stated that Section 18 of the Estates (Abolition and Conversion into Ryotwari) Act, 1948, gives exemption in regard to the property owned by individuals and as such the 3rd respondent without application of

mind, and by simply stating that the land situated in Gramakantam is a Government land is trying to repossess the land which is illegal, null and void. Hence, the present Writ Petition.

The respondents 1 to 4 filed a common counter denying the contents of the affidavit except the extent admitted by them. It is submitted that the land measuring 100 ankanams in Sy.No.75-1 of Naidupet Town is classified as village site Poramboke as per the Revenue records i.e., Fair Adangal. A news item was published in Eenadu daily news paper dated 26.04.2011 stating that the entire land situated in Sy.No.75-1 was registered in the name of Kolluru Subba Rao and Galla Subbaiah by the members of Republic Recreation Club and Reading Room, Naidupet. As seen from the Fair Adangal, the Sy.No.75-1 is classified as Poramboke and entered as Grama Kantham, as such the land is Government and action should be taken for protection of the Government land. The Tahasildar got the matter enquired into wherein it was revealed that in Agraharapeta of Naidupeta town a recreation club was formed about 20 years ago in an extent of 100 Ankanams. Later, the Club was wound up and Akkurthi Muniramaiah, Chiruvella Maniraja and Oggu Sai tried to sell away the land. Earlier Oduru Ramana Reddy and Sundara Ramireddy purchased an extent of about 93 Ankanams of vacant site and got the

same registered in favour of the society vide Doc.No.13024, dated 29.03.1995 and started the Republic Recreation Club and Reading Room. The Society was wound up due to non-cooperation between the members and also due to financial problem and thereafter the registration of the society was not renewed. Since Ramana Reddy and Sundara Rami Reddy got the site of 93 Ankanams registered, without showing the name of L.A.Sagaram village and also the Survey number of the land, the Collector was requested to permit entering the land in the P.O.B. and accordingly the Collector in his proceedings D.Dis.No.E8/6609/2010 dated 15.03.2011 directed to enter an extent of 100 Ankanams in Sy.No.75/1 in the P.O.B. In view of the above, the M.R.O., entered into the said land and erected a board stating that the land belongs to Government and none should enter into the land. It is specifically stated that the site in question has not been under the possession of anybody and there are no structures of any kind. It is specifically stated in paragraph 5 of the counter that land is classified as Grama Kantham in the fair adangal of the village and as such it is a Government land, but not a private land. In view of the above, it is stated that the registration said to have been done by Sub-Registrar, Naidupet is illegal and also need to be cancelled. It has been the specific case of the respondents that the land stands classified as Gramakantham.

The meaning and the rights of Gramakantam lands are well settled by authoritative pronouncements.

In **The Executive Officer, kadathur Town Panchayat v. V.Swaminathan and others**,^[1] it is held as under:

“Further ‘Grama Natham’ is defined in the Law Lexicon as “ground set apart on which the house of village may be built”. Similarly, Natham land is described in Tamil lexicon published under the authority of University of Madras to the effect that it is a residential portion of a village; or portion of a village inhabited by the non-Brahmins; or land reserved as house sites; etc.

The properties once understood and classified as gramanatham, the Government cannot claim right over the said property. This concept has been elaborately discussed in the decision reported in **S.Rengaraja Iyengar v., Achikannu Ammal and another**^[2]. The relevant portion reads as follows:

“In order that a land may properly be described as house-site within the meaning of that expression in section 2 of Madras Act III of 1905, it is not necessary that there should be a residential building actually constructed and standing on that site. A person may in a village habitation own a house in a street and a site on the outskirts of the habitation but within the limits of the gramanatham, which he uses for the purpose of storing his hay and manure, if he is an agriculturist, or as a smithy, if he is a smith, or as a brick-kiln if he is a brick-maker or as a place for weaving if he is a weaver. On such sites, buildings or sheds may when necessary be constructed. But whether such buildings or sheds are constructed or not, such sites, are in my opinion, house-sites within the meaning of that expression in section 2 of the Madras Act III of 1905. Madras Act III of 1905 is made applicable to an estate when it is notified under Madras Act III of 1905 is made applicable to an estate when it is notified under Madras Act XXVI of 1948. The provision as to vesting under section 3(b) of Madras Act XXVI of 1948 should be read so as to be in consonance with the provisions regarding the applicability of the enactments relating to ryotwari areas which are

expressly made applicable to estates notified under the Act.

It is contended that, in relation to buildings, specific provision is made under section 18 of Act XXVI of 1948 and that, consequently, unless a house-site can be brought within the ambit of section 18, such house-site should be held to be property as to which title gets transferred to the Government under section 3(b). Section 18 deals, in my opinion, with building wherever they may be situate, whether in the gramanathams, or in ryoti lands or pannai lands or waste lands. Section 18 has no particular application to buildings or house-sites in a gramanatham. A building in a gramanatham (or village habitation) is protected from transfer of title to the Government both under section 18(1) of Madras Act XXVI of 1948 and under the Madras Land Encroachment Act (III of 1905). The title to a house site in a gramanatham is protected from transfer to Government by the operation of Madras Act III of 1905.”

Further, there is no prohibition to undertake the transaction of the said land. A learned Single Judge of this Court in **Voonna Bangaraju v. Government of Andhra Pradesh** ^[3] held that Grama Kantham describes the area identified for the purpose of construction of residential houses and incidental structures in a village. It is neither a Government land nor land vested in the village panchayat.

In view of the judgments referred to above, the argument of the learned Government Pleader that registration of Gram Kantham land by Sub Registrar itself is illegal, cannot be accepted.

As stated earlier, the request of the petitioners that interference of respondents in the property belonging to the petitioners without issuing any notice or following due process of law is not sustainable since the petitioners are

said to be in possession of a property which is admitted to be a Grama Kantham land. Having regard to the judgments referred to above, the request of the petitioners can be accepted.

Accordingly, the Writ Petition is disposed of directing the respondents not to interfere with the petitioners' property admeasuring an extent of 736 sq. yards with Door No.6-7-23, in 6th ward, 7th block, in Lakshmi Ananthasagaram village @ Agraharapeta of Nayudupeta Gram Panchayat, S.P.S.R. Nellore District, without issuing any notice or following the due process of law.

No order as to costs. As a sequel to it miscellaneous petitions, pending if any in this Writ Petition, shall stand closed.

C. PRAVEEN KUMAR, J

Date:12.08.2015

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[\[1\]](#) 2004 (3) CTC 270

[\[2\]](#) 1959 (II) MLJR 513

[\[3\]](#) 2014(3) ALD 443